

Conservation Commission – Town of Spencer

Minutes



Conservation Commission Meeting
Wednesday, July 14, 2010 at 7:00 PM
Town Hall, McCourt Social Hall

The Meeting was opened at 7 p.m.

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

Commissioners Absent: Ernie Grimes, Warren Snow

Staff present: Ginny Scarlet

Ms. Scarlet announced, “the meeting is being recorded.”

Minutes Approved: June 9, 2010 – *A motion to approve the minutes as amended
(Moennsad/Lochner) passed 3/0.*

7:32 p.m. Opened the Continuation of Public Hearing for Notice of Intent for the Town of Spencer, MA

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

Mr. McNeil, Director of Utilities and Facilities, had an engineering firm do hydraulic calculations. He began by saying that the calculations show that the 54 inch culvert will reduce the frequency of flooding by carrying the two and five year storm events. Under the proposed conditions, the first storm event that will produce flooding will be the 10 year flood.

Ms. Lochner said it was mentioned at the last meeting that there may be two culvert pipes. Mr. McNeil said that Mr. Fournier had mentioned that possibility. Mr. Fournier asked the name of the engineering firm that did the calculations. Mr. McNeil said it was Lenard Engineering from Auburn.

Ms. Lochner asked if Mr. McNeil wanted to continue the hearing to allow time to get plans of the details.

Mr. McNeil answered that, at this point, all that needs to be added are the end details and the bedding of the pipe. It's up to the Commission if they would like to see the details before closing the hearing. Mr. McNeil said as an alternative the Commission could put a Condition into the Order that detail plans must be submitted and approved before construction. The latter sequence would allow the detail plans to reflect the final overall plan approved at the hearing.

Ms. Scarlet remarked that the detail plans are mostly relevant to erosion control. The Commission could require peer review when the plans are received if there are questions. Therefore using a condition in the Order covers what's needed. Another hearing continuation would delay recording of the Order and thus the possible project start date. Both Ms. Lochner and Ms. McLaughlin said that they saw no difference as long as they saw the detail before the start of work. Ms. Scarlet said that the only difference was in timing.

Mr. McNeil reiterated that the FEMA funding must be used to complete the project by the end of this year. Otherwise it won't be available.

At this time, the Commission asked for comments from members of the public at the meeting.

Mr. Kulesza asked whether Lenard Engineering's calculations were based on a stamped drawing.

Mr. McNeil said, "No. This is a maintenance project." He explained that stamped plans are created for construction projects which will go out to bid. This project will be done by town highway workers. He continued that Utilities and Facilities have never used stamped plans for projects done by the town itself. The recorded plan for this project started with a survey done by BSC Engineering as a base. The project was then drawn on that base plan to accurately show the Commission the location of the project, with both intersection improvements for safety and the culvert replacement to reduce flooding.

Mr. Kulesza, "So in short, it's (a stamp) not needed."

Mr. McNeil, "Correct."

The Commission and Mr. McNeil confirmed the specific plans being referred to as:

1. 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.
2. 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.

Ms. McLaughlin, "Do I have a motion to close this hearing?"

Mr. Harry Hatch of 7 Sycamore Ave. "This whole thing doesn't pass the sniff test." He pointed out the connection to major body of water, the lack of stamped plans and the lack of detail. Mr. Hatch claimed there was no consideration of the volume or velocity of the water or the effect on the dam, that there would be no filtration of the water, and that "we're not doing due diligence for this project." He asked, "what happens when we have the 100 year or 500 year storm?"

Mr. McNeil pointed out that the hydraulic data has now been provided. He indicated that the data shows that the velocities would be similar to the existing conditions, that the culvert is not designed to pass the 10 year, 25 year, 100 year or 500 year storms but will eliminate over topping in smaller storms in the two and five year storms, which are substantial.

Ms. McLaughlin confirmed that a five year storm is four inches in 24 hours.

Mr. McNeil pointed out that eliminating the frequent events and thus reduces the majority of the sedimentation which occurs during every over-topping of the road. Currently 10 to 15 feet of gravel sediment that has already washed from the road bed and been deposited in the lake is visible from the road. Installation of the culvert will not otherwise change existing conditions. He expressed surprise that the project was meeting so much resistance. He repeated that the project goal was to restore the roadway and pass the water through in a way that will keep the roadway safe. He acknowledged that the project would use pipe already on hand leftover from a previous project to help keep costs down but that the calculations show it will do the job.

Mr. Kulesza commented that as a Stile resident, he disagreed. Mr. Kulesza said he thought that Mr. McNeil was correct from a limited viewpoint, but wider conservation issues were being ignored. He asked the Commission what sort of scouring the pipe would cause, whether the digging would go too deep, and pointed out that there was no detail about the erosion controls. He asked the Commission to state their concerns or whether they are more in agreement with Mr. McNeil.

Mr. Moennsad said he approved of using FEMA funding and that the plan would bring improved conditions. The Commission could require a detail plan about erosion control as part of the permit. He asked Mr. Kulesza whether that would satisfy him about erosion control.

Mr. Moennsad asked Mr. McNeil if that was something he could do?

Mr. McNeil, "Yes."

Mr. Kulesza said an erosion control "study" should be looked at by the Commission and perhaps by concerned citizens.

Mr. Moennsad reiterated that there is a time limit to utilize the funding.

Mr. McNeil repeated that during the work the water level will be down, hay bales and silt fence would surround both ends of the excavation, the pond will be pumped by a pump suspended in the deepest part of the pond, the road will be closed, the hose will go over the road so clean water from the pond will be discharged into the reservoir. It will not go through the work area and pick up sediment. Dewatering is not involved. Instead water is controlled to go from one side to the other. It is likely that the work will be done in 6 inches of water retained in the work area.

Mr. Fournier said that Rob described an ideal situation and asked what happens if a storm comes and where are the detailed contingency plans? He asserted that a plan was being slung together without detail to rush the job. He gave the Commission two letters from his engineer, Mark Donohoe of Acton Survey and Engineering Co., dated June 14, 2010 and July 13, 2010. The July letter bore Mr. Donohoe's stamp and signature as a Professional Engineer. Mr. Fournier explained that Mr. Donohoe's letters were based on review of the Minutes of the Commission's June 9, 2010 meeting. Mr. Fournier asserted that Mr. Donohoe is "tremendously experienced" and knowledgeable in "all types of engineering." Mr. Fournier read the letters aloud. (Copies of the letters attached.) Mr. Fournier asked that the letters be incorporated into the minutes.

Mr. Fournier recounted that DEP told him that in the WP3 form the project was misrepresented and that it is not a culvert replacement; that there is no culvert there - that stormwater management standards apply.

Mr. Fournier stated that Stiles reservoir is 400 acres, 30 feet deep and has a high risk dam 900 feet wide and 30 feet high. He asserted that the culvert as proposed would

increase the velocity of flow into the reservoir during large storms, thereby endangering the reservoir dam and causing deaths downstream. He said that these conclusions were based on an emergency evacuation plan on file in Leicester. We can't anticipate the "speed and velocity" that the water might come in with. He expressed surprise that neither Mr. McNeil nor Mr. Donohoe had talked to Dam Safety (DCR Office of Dam Safety) or Fish & Wildlife about the project. Mr. Fournier said that he called EPA and based on his description, EPA said an NPDES discharge permit is required. Mr. Fournier asserted that we don't know what's going to reach the lake. He gave the Commission photographs of the pond and the reservoir. He asserted that there's no road safety issue and no reason to hurry. He repeated his stated mentioned concerns at some length.

Ms. Scarlet noted that the hydrological calculations had been supplied. They show that under existing and proposed conditions in any of the storms the amount of water reaching reservoir will be the same. The speed with which the water reaches the reservoir will essentially be the same. She stated that it is true; that a lot of water goes through there.

Mr. Fournier interrupted saying, "26 cubic feet a minute. That's all. It's detained."

Ms. Scarlet asked Mr. Fournier not to interrupt. She went on to say the amount of water is significant. The watershed which reaches the culvert area, whether it's stone or becomes pipe, is about ½ the watershed for Stiles reservoir. When water can't get through, it goes over top. The pipe will keep the two sides equalized longer. It will carry the smaller, more frequent storms and cut down the number of overtopping events over time. Each over topping causes erosion. To contrast erosion at present with possible erosion with the pipe in, the Commission has asked for details about the protections at each end of the pipe. She asserted that wildlife implications are not within Mr. Donohoe's expertise. The area is not Riverfront Area because the pond is more than 200 feet wide. She believes the project is a reconstruction improvement of existing developed conditions. She suggested that the Commission formally go through the Wetlands Protection Act Regulations and find what standards apply and determine which of the regulated resource areas are involved. She pointed out that none of the presumptions of significance had been rebutted so all the public interests are present to be protected. She identified Land Under Water body & Bank.

Mr. Kulesza pointed out that Ms. Scarlet is not a registered professional engineer which Ms. Scarlet confirmed as correct. He pointed out the second letter, written by Mr. Fournier, was signed and stamped by Mr. Donohoe. Mr. Kulesza read Mr. Donohoe's registration number as 27148. He reminded the Commission that the plans for the project were not stamped. He asked whether the flow calculations bore a stamp. He asked who had traceable responsibility if the project had a bad result. Mr. Kulesza expressed his opinion that Mr. Donohoe's letter, as the only stamped document, was probably the most reliable especially in terms of the new Open Meeting Law.

Mr. Fournier said he had called DEP again and said they were "very surprised" by what he told them, but they can't intervene now because the application is in the hearing process. Mr. Fournier claimed he was told that the next step was to wait for the Commission's decision then file an appeal with a \$200.00 check. So he went back and looked at the application form. Mr. Fournier said there were a lot of empty places on that form that aren't signed, that Mr. McNeil filled out. He said there's confusion about Mr.

McNeil's position. He's a registered professional engineer and Director of Utilities and Facilities. He repeated again that there's a high risk dam but the project is being defined as maintenance, that Mr. McNeil has less experience than "his engineer," that he (Mr. Fournier) has spent three days on the watershed, and went to Jones Rd (sic) and checked the 36 inch culvert there that's part of the watershed. That culvert is 2 feet out of water, while Mr. McNeil wants to put a 54 inch pipe in the water. "The previous Spencer Superintendent did things one way. Mr. McNeil does things another way. Why can't we have the ASTM standard engineering practices way to do it?" Mr. Fournier continued that "we want the best." He gave his opinion that we want quality of water coming in, and we're not going to get that. "We don't know what we're going to get. Every time we open the shear gate at the Stiles dam, we're going to lower Watson's Pond and the one behind it." He asked whether the mud would get anaerobic and said there might be peat "in there." He said the biggest issue is dam safety. He said he has inspected dams "for about 15 years with heavy hitting people." He expressed serious fear about what this project would do pointing out that the Stiles reservoir dam needs repair and asserted that dams are only designed for the 25 year storm like bridges.

Ms. Lochner noted the contrast between the hydrologic calculations and the flow descriptions she hears at this hearing session.

Mr. McNeil explained that Mr. Fournier and others had not yet had the chance to review the calculations and this was the first time he had seen the letters from Acton Survey. Mr. McNeil asked for a continuance to review and respond to the comments.

Mr. Fournier agreed. Mr. Fournier disputed Ms. Scarlet's description of the effect of the proposed culvert. He repeated again his concerns about the effect on the dam and about lack of suspended solids. He asserted there's a lot of settling in the pond. Mr. Fournier asked for a copy of the full hydrological calculations. Ms Scarlet promised to provide them.

Mr. Moennsad asked Mr. McNeil why he didn't stamp the plans.

Mr. McNeil replied it was because he is not insured by the Town to stamp plans. Mr. McNeil said he would consider hiring an engineer to review and stamp the plans remarking that it certainly looked like things were moving in that direction. Ms. Scarlet asked if anyone else wanted a copy of the Hydrological Report. Mr. Hatch asked for the summary. She gave him one and assured that the full report would be provided if he needs them.

At the applicant's request, the hearing has been continued to August 11, 2010 at 7:15 p.m.

8:34 p.m. Opened the Public Hearing for Request for Determination of Applicability for New England Power Co., d/b/a National Grid Property: Northeast edge of Thompson Pond, Spencer, MA

Ms. Kelly Kippenberger represented National Grid. She described the project as a 67 mile project to replace the high tension wires with heavier wire. That requires replacing some towers which are not strong enough to carry the greater load. There are two towers in Spencer and one of those towers needs to be replaced, #447. The existing #447 tower sits on a hump of upland in the wetland margin on the west side of Thompson Pond. It will be removed and a new tower built 100 feet further away from the wetlands. Erosion controls will be used during the process. Straw will be used to minimize the

spread of invasive seed. Swamp maps will be installed for machine access needed for the project. Ms. Kippenberger said that National Grid has an individual permit from DEP for swamp matting associated with maintenance activities. The mat installation is done to U.S. Army Corps of Engineering standards. The swamp mats will be in place until February or March. Ms. Scarlet said she went and watched while the swamp mats were being placed. No brush had to be cut.

Ms. Kippenberger explained that the new structure will have a concrete foundation. Geotechnical borings will start tomorrow. Foundation excavation will be deep; 8 to 12 foot diameter holes 15 to 25 feet deep are needed to install the 6 to 8 foot diameter pier footings. There will be excess soil which will either be spread in upland and seeded, or hauled out. The old tower area will be regraded and seeded with wetland mix. Ms. Kippenberger showed the Commission photos that she took today; she will email them to Ms. Scarlet.

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

A motion for a Negative Determination (Lochner/Moennsad) passed 3/0.

Other Business:

67 Jolicoeur Avenue: Ms. Scarlet said the matter was brought to her attention by the Building Inspector. The project is to construct a new single family home. Due to the house being so close to the lake the groundwater is high and matches the lake water level. While contractor is digging the foundation, groundwater keeps seeping into the hole. The water must be pumped out in order to pour the house foundation. In comparing the building permit drawing with the Order of Conditions Plan, Ms Scarlet found they are different. The house size changed and the well location changed. Ms. Scarlet said there are a number of issues that need to be resolved to get this project back into compliance.

Ms. McLaughlin said she is personal friends with the owner's family so she will take part in the discussion but will NOT take part in any decisions.

The Commission reviewed the plans. The owner has two lots. One lot is near the lake that had a small house on it which has been demolished. The new house is to be built there. The second lot, further from the lake will be used for a new septic system.

Mr. Jason Dubois said the well was relocated because the engineers were not aware of where the abutters well was. The Board of Health has approved the new well. The house footprint was changed to a better design that fit the lot. The impervious surface stayed exactly the same. There is a corner of the deck that is about a foot closer to the water. Overall, the new plan shows that there will be less house near the water. Mr. Dubois said that he spoke to Ms. Scarlet about a year ago regarding the plan change. He said it was mentioned that a minor change like this could be reflected on an As-Built plan. The big issue is the dewatering in the cellar hole.

Mr. Dubois said they knew there was high groundwater and the soils were gravelly. They knew there would need to be some kind of dewatering plan when the time came. The excavation is eight feet further from where the deck is planned. The water has come up several feet from November of 2008, when the plan was originally done. Mr. Dubois added that the property line pin is now in six inches of water in the pond.

Ms. Scarlet said this is a tough lot and she thinks the erosion control should be designed by a professional, an Erosion Control Specialist or a Professional Engineer. Mr. Moennsad asked how much water is in the hole. The contractor said there is approximately three feet of water in the hole now. The trench is six feet wide. Ms. Lochner said the owner and contractor need to come up with a plan. Since there is no Conservation Commission meeting for a month, the Commission has authorized Ms. Scarlet to review the applicant's plans for dewatering once submitted. She may approve them if she finds them appropriate. If Ms. Scarlet receives the plan electronically, she will forward the plan to the Commissioners

Depot Trail: Scout Chris Wallace, Troop 116 introduced himself. Ms. Scarlet said she and Chris have been emailing back and forth different ideas for the trail. After walking the trail with his father, Chris has decided that he would like to build a fishing pier at the Pond. He asked what the time frame would be to start building the pier. Ms. Scarlet said an RDA would have to be done first and that would take between 21 and 42 days. Ms. Lochner asked if a building permit would have to be pulled. Ms. Scarlet said she will inquire. Ms. Lochner asked Chris if he would have someone design the pier. He said his father is a certified Construction Supervisor so he would be willing to design the pier.

Mr. Wallace, Chris's father, asked where the Commission wants the pier to be. Ms. Scarlet said there is a peninsula into the water in the area near the pond outlet culvert that would be a good place for a fishing area.

Chris and his father will take a walk down and see where exactly the pier could be built. They will be in touch with the Building Inspector to possibly have him take the walk with them.

Signed:

- 6 Cranberry Lane, Order of Conditions: A letter was received from the owner authorizing his brother, Robert Norris, to manage the property.
- 74 Cranberry Meadow Road, Certificate of Compliance: Ms. Scarlet reported that the runoff has been corrected and management system working for a year. "All is good." *A motion to issue a Certificate of Compliance (Lochner/Moennsad) passed 3/0.*
- 15 Hastings Road, Certificate of Compliance: Ms. McLaughlin read the inspection report from Ms. Scarlet. The Commission looked at photos of the finished conditions. All looks good. *A motion to issue a Certificate of Compliance (Lochner/Moennsad) passed 3/0.*

Open Meeting Law: The Commissioners reviewed the law and signed their forms. Ms. Scarlet will give the forms to the Town Clerk. Ms. Scarlet noted that at every meeting a list must be made of the documents used at the meeting and that list has to be attached to the Minutes, becoming part of the permanent record..

Ginny Report:

Re: potential Cons Com members – I emailed Brian Graef of Kingsbury Road inviting him to this meeting. Stan Kulesza of 7 Sycamore Drive has volunteered to be a Commissioner. I invited him for tonight also.

South Spencer Road beaver dam – I'm starting with education working with the Water Dept. and the south side property owner. Slow work but progress.

2 Bixby Rd – I did a final inspection and this time they got the swale and outlet elevations right. I gave a letter to that effect as it was a Determination and Certificate of Compliance not appropriate.

Spencer Abbey Dam – The stabilization looks good. As far as I know the dam is working properly. Tighe & Bond plan to monitor it through next winter before seeking a Certificate of Compliance.

Sullivan St. - Mr. Kady and Mr. Krevosky have set Aug. 9 as a start date for cleaning out the detention basin. Mr. Krevosky is representing Mr. Jardus. I'll be joining the kick off meeting.

Releasing old Executive Session Minutes – the amendments to the Open Meeting law remind that Exec. Session Minutes have to be released once the matter is resolved. The Chairman of the Commission has responsibility to review old minutes and decide which can be open to the public. I have pulled together all the Commission Executive Session Minutes for Ernie's or the whole Commission to review at the Aug. 11 meeting, or whenever Ernie is able to attend next.

Sugden Dam - U&F is having an engineering firm inspect, make recommendations for repair of the dam and control gate, and prepare specifications for bidding. Mr. McNeil hopes to have the bidding done by fall so the project can be done during 2010-2011 drawdown. Stay tuned.

Lake Street Extension Enforcement – I have not yet reached Margaret Wissiup. The Post Office says the letter was received 6/8/10 at 10:01 a.m. Since the certified letter was received, I propose to send a notice of violation letter, mentioning potential fines and enforcement – again by Certified Mail. If that doesn't work, I think the next step is sending a Constable with a fine ticket.

I will not be able to join the July 24 site walk with the property owners. It was hard to find a date, so I propose that I contact the owners tomorrow, get permission to walk by myself during my working hours (with or without them at their option). Then I'll write the Commission a report with whatever suggestions I have for fixing the water/drainage problems. You can take the report with you when you do a site walk. Any decisions you make will have to be discussed and made at the Aug.11 meeting.

July 28th meeting is CANCELLED for lack of quorum.

Next meeting is on August 11, 2010. Ms. McLaughlin will not be at the August 11 meeting, Ms. Lochner will be here, Mr. Moennsad might be here and Ms. Scarlet will check with Mr. Grimes and Mr. Snow.

New Applications: 99 Maple Street, RDA

Site Visits: July 24th at 8:30 a.m. – Lake Street Extension and 99 Maple Street (Judy took the file)

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

Respectfully submitted by:

Lisa Daoust, Clerk
Development & Inspectional Services

List of Documents and Media Used July 14, 2010.

Attach to the Minutes

- 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.
- June 14, 2010 letter to Bob Fournier from Mark T. Donohoe, PE
- July13, 2010 letter to Bob Fournier from Mark T. Donohoe, PE
- National Grid Request for Determination at Thompson Pond all inclusive.
- Photos of the NGrid work site on laptop shown to the Commission by Kelly
- Ginny Scarlet inspection report re NGrid tower site.
- Determination of Applicability for New England Power Co. d/b/a National Grid (signed)
- Surface Disposal System Repair Drawing, 67 Jolicoeur Avenue, Spencer, MA 01562. Prepared by Bertin Engineering Associates, Inc., Southbridge, MA for James Bouley; 12-19-2008, revised 8/5/09.
- 67 Jolicoeur Ave -Drawing; unsigned showing previous and current house footprints. Received at the hearing from Bertin Engineering, Inc.
- Photocopy of Building Permit Plan for 67 Jolicoeur Avenue

- Photocopy of the first page of the Order of Conditions for 67 Jolicoeur Ave. showing it was recorded at the Worcester County Registry of Deeds; Bk 44078 Pg 374.
- Site Inspection Report, 67 Jolicoeur Rd, by Ginny Scarlet, 7/14/10 plus 67 Jolicoeur Ave,
- Inspection Report by Ginny Scarlet – 74 Cranberry Meadow Road
- Certificate of Compliance – 74 Cranberry Meadow Rd.
- Inspection Report – 15 Hastings Road with photograph of 15 Hastings Rd – taken 6/30/10 by Ginny Scarlet
- Certificate of Compliance – 15 Hastings Road
- Letter from Chris Wallace, Scout, introducing himself.
- The “Ginny Report – 7-14-10” (now incorporated into the draft meeting minutes)
- Open Meeting Law Guide, AGO 7/1/2010
- Order of Conditions – 6 Cranberry Lane (signed)

Photographs (printed)

- 7 untitled, unsigned, undated photographs of Stiles Reservoir and the pond by Chickering Road, presented by Mr. Fournier numbered and stamped received by Conservation Commission staff.
- Spencer Abbey dam – taken 6/30/10 by Ginny Scarlet
- Cranberry Meadow River Beaver Dam – taken 7/6/10 by Ginny Scarlet
- 67 Jolicoeur Ave - 4 photos taken 7-14-10 by Ginny Scarlet