

Conservation Commission – Town of Spencer

Minutes



Conservation Commission Meeting
Wednesday, February 23, 2011 at 7:00 PM
Town Hall, McCourt Social Hall

The Meeting was opened at 7 p.m.

Commissioners Present: Ernie Grimes (Chairman), Judy Lochner, Warren Snow, Dana Reed, Ram Moennsad

Commissioners Absent: Mary McLaughlin

Staff present: Ginny Scarlet

Minutes Approved: January 31, 2011 – *A motion to approve the Minutes as amended (Moennsad/Lochner) passed 4/0.*
February 9, 2011 – *A motion to approve the Minutes as amended (Snow/Moennsad) passed 4/0.*

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

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

Mr. Rob McNeil, Director of Utilities and Facilities, summarized the purpose of the Notice of Intent for the Commission. The Notice of Intent has been in the works for some time. The intent is to cover the Highway Department, under the Wetlands Protection Act and their associated regulations, in all general, normal business practice that occurs annually with the Spencer Highway Department. Mr. McNeil went on to say the plan is to get the Notice of Intent approved, establish an understanding between departments, train staff and stay in sync.

Mr. McNeil addressed Ms. Lochner's emailed questions asking what resource areas each activity will occur in. Mr. McNeil said they have a contract with a consultant to put all the road, structure and natural resource information into the GIS System and produce maps of the activity areas. Ms. Lochner asked why the riverfront area is limited to outside the MS4 on the plan in the NOI. Mr. McNeil said the information in the Notice of Intent will be clarified in the Order of Conditions to specify that all riverfront area is included. Riverfront throughout the whole town is regulated by the WPA. Mr. McNeil said that when the Stormwater Regulations were looked at, they were trying to differentiate between MS4 and outside MS4. The Stormwater Committee decided that it did not make sense for work methods to differentiate the MS4 area from the rest of the

town. The fact that it's likely that the MS4 boundary will change over time influenced that decision.

It is Mr. McNeil's understanding that the bank does not exist for intermittent streams. Ms. Lochner disagreed. Ms. Scarlet said intermittent streams are not streams unless there is a wetland above that section. Mr. McNeil said he is not interested in re-writing what DEP has for bank regulations. Certainly the regulations will apply. Ms. Lochner said it seemed to her that banks on intermittent streams were going to be avoided with the way the Notice of Intent was written. Ms. Scarlet said she will put in the findings that banks are covered everywhere. Ms. Lochner said they will go by the findings, not what is written in the Notice of Intent.

Mr. McNeil said if a catch basin is installed new or replaced, they use pre-cast concrete with a 4 foot diameter and 4 foot sumps, which are DEP standards. Old corrugated pipes will be replaced with plastic pipes. There will be a slight increase in velocity because the friction factor of the material is different. Anytime a replacement is done, it will go back into the same location along with same inverts, same slopes and same diameter. If there is any increase with velocity, it will be corrected in the outfall area. Ms. Lochner asked if the change from corrugated to smooth pipes would make that much of a difference. Mr. McNeil said it would depend on the existing slope of the pipe. Normally the friction factor doesn't have an appreciable change to velocity.

Ms. Lochner commented that the Notice of Intent said any work done in the BVW except for mowing and the cutting of vegetation would not be covered under this NOI. Mr. McNeil said he is not looking to limit the coverage on the projects. Mr. McNeil said the intent of this package is to cover work that is normal, routine maintenance in the resource areas. Ms. Scarlet said filling pot holes is not in wetlands; none of the town's roads are in wetlands. Mr. McNeil said the only time he would expect to be anywhere near BVW would be replacing the culvert and building erosion control pad at the outfall. Ms. Lochner said in the project list A through I, Areas of Potential Impact, they all said BVW. Mr. McNeil said he will revise the language. Ms. Lochner just wanted it clarified.

Mr. McNeil said typically they will try not have stockpiled materials. They will stockpile the materials away from where it is erodible. Hay bales will be put up if necessary. He also envisions when the loader is scraping debris and sand from the shoulders, the intent is to get the debris up and out of the 100 foot BVW buffer. It will be put in an area then will be stockpiled later. The Highway Department will continue to do the work they have been doing, it's just now on paper so everybody can understand what is being done.

Mr. Grimes pointed out some problems with the references to maps of habitat and the names of the maps. Mr. McNeil will correct the maps. Mr. Grimes also asked where the one certified vernal pool is located. Ms. Scarlet said it is west of Stiles Reservoir and south of GH Wilson Road far from any road. Ms. Scarlet will show Mr. Grimes the location another time.

Ms. Scarlet said she was relatively comfortable with most of the descriptions of how road maintenance work would be done. Ms. Scarlet wrote draft conditions to say that the Order only grants permission for those things that are in the NOI list. The Commission's standard conditions are also included. Mr. McNeil commented on condition #9. Mr. McNeil suggested that requiring the supervisor sign each condition would be a stretch. Mr. McNeil can see this being done in the office. The plans and the signed Order will be on site at all times. Ms. Lochner said she doesn't believe it is necessary to make the supervisor have to sign every condition. They are getting an Order of Conditions to follow and it is up to the supervisor to direct the crew. Ms. Scarlet pointed out that the Commission had voted at their last meeting to put that contractor certification of conditions into all Orders of Conditions. Mr. Grimes said that condition needs to be deleted in this case. Mr. Grimes went on to say if the job isn't done right, the highway department is not going anywhere.

Mr. McNeil said that there will be spill kits available at the garage. If a truck blows a hydraulic line, the spill will be isolated and someone will be called immediately to bring the pads from the garage. The spill kits will not be carried in all the trucks; they are too bulky. Mr. McNeil said if the contractors will be at a job for a good amount of time, the spill kits will be kept on site. Mr. Moennsad suggested the condition state the spill controls be used as needed. Mr. McNeil agrees because it will raise the department's awareness that the material must be on hand. They should not wait until something happens to buy the materials.

The conditions will be reviewed and ready for discussion at the next meeting on March 9th.

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

Other Business:

8:20 p.m. 122 Charlton Road

Mr. Grimes gave a report of the 2/13/11 site visit. The Commission determined by rough measurement, in spite of 4 feet of snow on the ground, that the house is no closer to the wetland than as shown on the approved plan. Mr. Grimes used snowshoes to venture to below the slope. The Commission found that the slope from the house down to the wetland level is 2 horizontal: 1 vertical, not the approved 3 h: 1 v. That's steeper than on the plan. Therefore, slope stabilization is now required.

Mrs. Terry had provided sheets of information about coconut fiber matting which the Terry's have used on other sites and propose to use here. The fabric would be laid down and covered with soil. It can then be planted with grass, or as at one of their past sites, covered with stone. They propose grass here.

The Commission thought grass would be hard to grow on such a steep and shaded slope. Grasses need sunshine to thrive. They suggested use of shade tolerant, spreading plants (maybe shrubby) and then that the slope not be mowed. The Commission specified

performance, rather than a specific species of plant. They specified the heaviest matting grade with the tightest netting matrix.

There was discussion about holding the slope bottom and the transition to wetland. A decision was made to place stones along the toe of slope on the house side of the erosion control hay bale/silt fence line.

Mrs. Terry asked what the conditions would be for the other lot areas, management of the roof runoff at the back of the house, and the material of the driveway. The Commission said that the driveway must be permeable. A gravel driveway is adequate, though there are other permeable materials which could be used. Gutters are not necessary at the back of the house. Mr. Grimes commented that a stone pad along back of the house would be needed to absorb the impact and disperse the water under the roof drip line. Mr. Reed mentioned that there is a house in North Brookfield which has an alternate water dispersion system, a grating mounted at the edge of the roof. At 122 Charlton Road, gutters are necessary on the porch roof and the downspouts must be directed into drywells, a rain garden or some other system which will infiltrate the water into the ground. Ms. Scarlet explained the layering of materials to construct a rain garden.

The wetland boundary must be marked with permanent markers. The Commission specified the wetland flag locations to use for placement of markers and offered to supply metal disks saying "Protected Wetland" and "Spencer Conservation Commission" at \$1.50 each. The markers can be glued to large stones, concrete posts or granite posts.

To be done for compliance:

- 1) The erosion control line must be made effective as soon as the weather allows and kept effective throughout work until the slope is fully stable and the vegetation is well established.
- 2) If silt escapes through or over the erosion control line the silt must immediately be removed by hand from the area beyond the silt fence.
- 3) The slope must be stabilized with coconut matting covered with 4 inches of soil and planted with shade tolerant, spreading vegetation. The grade of matting with the tightest netting must be utilized for the project. The matting shall be pinned in place with pins spaced no more than 6 feet on center or as specified by the manufacturer before application of soil covering.
- 4) Stone of a minimum dimension of 3 inches must be placed on the house side of the hay bales at the toe of the slope. This stone shall be placed as soon as the coconut matting is pinned in place but before the matting is covered with soil.
- 5) A bed of ½" (minimum size) stone must be placed at the drip line at the back to the house at the top of the slope to prevent erosive impact of roof runoff. The bed

should run the full length of the house, be 2 feet wide, and no less than 4 inches deep.

- 6) The driveway must be of a permeable material. A gravel driveway is acceptable. If other material is chosen, it must be approved by the Conservation Agent before installation or construction. The intersection of the driveway with the road must comply with the driveway permit. No water shall run into the road.
- 7) Runoff from the porch roof must be collected by gutters and directed into an infiltration system. A dry well or rain garden is acceptable. If another infiltration system is desired it must be approved by the Conservation Agent before installation or construction.
- 8) The Wetland Boundary must be permanently marked with large stones bearing identification as protected wetland. The labeling markers must be at least 1.5 feet above the ground surface. The markers must be placed at the locations of the current wetland flags, WF #s 6, 7, 9, 11, 12, 18, 19, 21, 22, and 23. If the flags are no longer in place, the survey plan of the lot on file at the Conservation Commission Office shall rule and be used for reference.

Land coming out of Chapter 61A: This property is part of the Estate of Esther Gale located on Lyford Road and Lyford Cross Road. The Commission previously looked at this area and suspected there are a number of vernal pools. None of these is NHESP certified but our local wetlands bylaw covers isolated vegetated wetlands and vernal pools. Ms. Scarlet drafted a recommendation memo to the Board of Selectmen and a caution letter to the attorneys. Ms. Scarlet has already sent the caution letter summarizing environmental responsibilities for development of the lots. Ms. Lochner asked if any of the Gale land will be left in Chapter 61A. Mr. Grimes said Lot 7 and Lot 10 remain. Ms. Scarlet pointed out that there must be at least five acres to stay in Chapter 61A. *A motion for a release of this property from Chapter 61A (Snow/Moennsad) passed 4/0.* Mr. Grimes signed the memo to the Board of Selectmen.

Fishing Pier, Moschini permission: Ms. Scarlet said that in a phone conversation Mr. Moschini said he would be very happy to grant permission for the fishing pier to be on his land. Ms. Scarlet said she found the General Law that pertains to land owner liability and gave copies to the Commission. Ms. Scarlet sent a memo about the project to Adam Gaudette, Town Administrator. Mr. Gaudette asked Ms. Scarlet to draft an agreement with Mr. Moschini. Mr. Gaudette will discuss it with town council. Chris Wallace has not answered Ms. Scarlet's email so she will phone him to find out whether he still wants to do the project.

Mr. Grimes called Artie Williamson a week ago. Mr. Williamson assured Mr. Grimes that he will provide the numbers for trail maintenance by February 27th. If Mr. Williamson doesn't get in touch with Mr. Grimes, Mr. Grimes will call and remind him again.

Bob Fournier emailed Ms. Scarlet telling her he is waiting for documents from DEP. He will get in touch with the Commission once he has the documents.

Old Commission Documents: The Conservation Commission has run out of physical file space. Ms. Scarlet looked into the Secretary of State's guidance. Documents will be scanned and stored on the Town Hall server where the GIS System files are. There will be an electronic list identifying the scanned documents and their locations. Also a card will be put in each file with the name of the scan and where to find it on the drive.

Meeting Recordings and Minutes: Using Mr. Moennsad's recorder, Ms. Scarlet is now able to make a wave file of the meeting recordings and can transfer that to computers. The file can be transferred onto a thumb drive also. The file from the 2/9/11 meeting was approximately 70 megabytes; too large to email. Ms. Scarlet also can convert the recording into an MP3. The MP3 is also too large to distribute by email.

Chickering Road culvert cleaning; DEP enforcement fine: The culvert was cleaned before the replacement project started. DEP is fining the Town \$1,000 and claims the cleaning was done without a valid Order of Conditions because the Order of Conditions for culvert replacement that was issued and recorded does not cover the cleaning. The cleaning was routine maintenance but there is, as yet, no Order for a routine maintenance. Ms. Scarlet is going to talk with Mr. Gaudette and suggest when the town pays the fine, a letter accompany the payment stating this payment is not an acknowledgement of having done anything that was a violation of the Wetlands Protection Act. Ms. Scarlet will request a copy of the violation notice from Mr. McNeil.

Public Record Requests: Ms. Scarlet looked up the proper procedure for a public record request that is not specifically in writing. There is a form that Ms. Scarlet created to use for logging and tracking verbal requests from now on.

Advanced Auto Parts: They will be moving into Big Y Plaza. They called Ms. Scarlet to ask whether the quantities of oil and waste oil they are required to collect can be stored in an Aquifer Protection Zone. Ms. Scarlet did some research and the answer is yes but a permit must be obtained from DEP.

Conservation Land: The Commission was given maps of land that the Conservation Commission has to watch over and a copy of the recorded 1975 Conservation Restriction giving the Commission oversight. The land is part of the Richard Green land north of East Main Street.

Permit changes for pond/lake herbicide treatments: A new EPA NPDES permit is in draft. If it becomes final, it will be needed for all herbicide. This will affect Brooks Pond, Browning Pond, Cranberry Lake, Stiles Reservoir, Sugden Reservoir, Thompson Pond and Lake Whittemore. The new permit was supposed to be out by the end of 2010 but has not been issued yet. DEP will not be able to adjust their WPA regulations until they see the final federal permit. Ms. Scarlet will keep the Commission up to date.

Clerical help letter: Mr. Snow drafted a letter to the Town Administrator requesting more clerical support and funding for training for the Conservation Commission. The Commission reviewed and discussed the letter and made comments. The letter will be copied to Lee Jarvis and the Finance Committee. Ms. Lochner was asked to write a final draft for signature.

Signed: 391 East Main St., Mercury Wire, Negative Determination
391 East Main St., Mercury Wire, Certificate of Compliance – Ms. Scarlet reported that all is stable but she is not sure that they've pulled out the plastic silt fence. Ms. Scarlet recommended that the Commission issue the Certificate of Compliance with a reminder about silt fence removal. Ms. Scarlet will make sure they follow through. *A motion to grant a Certificate of Compliance (Snow/Reed) passed 5/0.*

Snowmobile bridge: Rich Lapierre contacted Mr. Grimes regarding the snowmobile bridge across the Seven Mile River south of Sunoco. Mr. Grimes told Mr. Lapierre that to do the bridge would require a Notice of Intent filing because it is in riverfront protection land. Mr. Grimes asked Ms. Scarlet to get a packet together to send to the Snowbirds informing them of what they can and cannot do. Ms. Scarlet said if the Town adopts the Open Space Plan, establishing a good trail system would be a town project. If it is a town project, the Notice of Intent can be done with no fee in conjunction with the Snowbirds. Ms. Scarlet will also write a letter describing the process to get the proper wetlands permit.

New Applications: None

A motion to adjourn the meeting at 9:52 p.m. (Snow/Moennsad) passed 5/0.

Respectfully submitted by:

Lisa Daoust, Clerk
Development & Inspectional Services

SPENCER CONSERVATION COMMISSION
February 23, 2011
LIST OF DOCUMENTS USED

Spencer Conservation Commission Agenda for February 23, 2011
DRAFT Minutes, Conservation Commission Meeting, Monday, January 31, 2011.
DRAFT Minutes, Conservation Commission Meeting, Wednesday, February 9, 2011.
Notice of Intent for Routine Maintenance of Public Roads Town-wide, DEP # 293-0754,
Spencer Department of Utilities and Facilities.
Email from Judy Lochner to Virginia Scarlet & rmcneil@spencerma.gov re question to
road maintenance NOI, dated February 23, 2011.
Draft Findings and Conditions for DEP# 293-0754
Letter re sale of lots by Estate of Esther H. Gale, dated February 9, 2011, from Blaise P.
Berthiaume, Esq. to Spencer Board of Selectmen
Memo and attached information re Chapter 61A Right of First Refusal, from Adam
Gaudette, Town Administrator, to Conservation Commission and U&F, dated February
17, 2011
Letter to Blaise P. Berthiaume, Esq. re Estate of Esther H. Gale – Lyford Road Lots, from
Ginny Scarlet, dated February 16, 2011.
Memo from Conservation Commission to Spencer Board of Selectmen and Town
Administrator, Re Estate of Esther H. Gale – Notices of Intent to sell Lots 4,5, and 8 on
Lyford Road
Order of Conditions Lot 3R, 166 Charlton Rd, Spencer, Assessors Map R23, parcel 34,
issued to Glenn Moore, DEP# 293-0705.
Massachusetts General Laws, Chapter 21, section 17C re liability.
Copy of recorded 1975 Grant of Conservation Restriction on land of Herbert H. Green off
Main Street. The document is recorded at Worcester County Registry of Deeds, Book
5762, page 280-282. and a GIS sketch showing the land's location.
Mass Congress of Lake and Pond Associations newsletter article about new EPA draft
regulations for the use of herbicides and algaecides in lakes.
Memo from Conservation Commission to Board of Selectmen and Town Administrator,
re Conservation Commission Fees, dated February 16, 2011.