

Kingston Conservation Commission Minutes

April 20, 2010

7:00p.m. The chairman called the meeting to order.

Present: Gary Langenbach (chairman), Ryan Overholt, Daniel King, Sue Chamberlain, Marilyn Kozodoy, William Kavol

Staff: Maureen Thomas, Conservation Agent and Brandi Gordon, Secretary

Discussion regarding Tall Timbers walking trail system acceptance

- The Open Space Committee was asked in 2004 to accept and deed the trails to the Conservation Commission
- Money has been pledged by the developer of Tall Timbers Phase IV for ATV signage

Agent Updates:

- 18 Brook Street – pre-trial continued to April 22, 2010
- 6 Prospect Street – Police Department delivered enforcement orders that were not picked up by the Eck's. Lois Eck called the office and left a voicemail. The deadline for filing a Notice of Intent will need to be revised.
- Brookdale Street – work began on road repair under the emergency certification at the Lowe's Brook culvert under Brookdale on April 13th. The upstream earthen dam is also being repaired
- Route 27 – The asphalt from School Street to the Pembroke line will be pulverized April 19-23. Lawrence Lynch recently said that they may be able to finish the project ahead of schedule by July or August instead of the fall
- Elm Street Bridge Repair/Replacement – is exempt from filing with the Conservation Commission under the Wetlands Protection Act according to Mass DOT and the 2008 Transportation Bond Bill. There is no provision regarding exemptions from the By-Law. Mass DOT provided an opinion regarding state highway work from local By-Laws. Elm Street is a secondary highway/state route which may also qualify for the

exemption. The bridge portion of Elm Street is not a portion of the secondary highway/state route however. The Commission will have the opportunity to review the Section 401 Water Quality Certification that Mass DOT will file with DEP. A round table meeting was held on April 14th. There was a lot of concern for the Water Department building structurally and historically as well as concerns that the project was too big with likely too many impacts and likely not aesthetically pleasing, especially on a scenic road in a scenic setting.

- Pine Brook Culvert Removal – Water levels were 8” – 10” higher than normal on April 12th. Fred Nava may not be able to remove the Pine Brook culvert for another month or so.
- Howard’s Brook Culvert Undermining – in contact with Chief Heath and KEMA regarding whether the damage can be fixed with public assistance funding from a disaster declaration that may be made. Signage is in place to alert people of the danger.
- CPC Site Visit / George Hall Land – Olly DeMacedo said that the Commission could attend the May 1st site visit at the Hall land.

Marilyn Kozodoy stated that Paul Gallagher recommended a lease agreement between the town and the person currently using the area for paintball with permission from the current property owner. The formation of a sub-committee was also discussed.

Marilyn Kozodoy stated that the Calista Property would not have an affordable housing aspect now.

- Calista Vernal Pool Evaluation – during site visits with Jim Manganello of LEC Environmental, only green frogs have been seen along with invertebrates, worms, planaria, etc. No obligate amphibians or egg masses of any kind have been seen.
- Senior Center – bids for sub-bids were due April 13th and bids for general construction are due on April 27th.
- Wapping Road Dam Removal – MEPA certificate due to be issued on April 16th
- Meeting with Board of Selectmen – BOS sent out a memo requesting to meet with various committees for updates on activities. The Commission is scheduled for October 12, 2010 @ 7:15p.m.
- Hathaway Property Gate and Parking Lot – Tom Antoine from Boy Scout Troop 49 offered to donate metal piping for a gate.

He also has a Scout that can build the gate. Paul Basler hopes to have the new parking lot completed by the end of the summer.

- Roger Correira had mentioned that a vehicle that had gotten stuck on Hathaway Preserve pulled down a gate owned by Roger Correira rather than be towed out of the area that they were stuck in
- Budget Update – meeting with Finance Committee occurred on March 25th
- Forest Stewardship Plans – Austin Mason stopped by the office on March 25th and said that the forest stewardship plans would take approximately one month to develop. Water Department acreage will be included in the Sampson Park plan but no stewardship would occur without their consent. The plan will be shown to the Water Department once it is completed.
Camp Nekon – Austin mentioned the PA Landers encroachment and said he would note the clearing of town land by them in the plan. Bob Sgarzi recently staked the property line, but the area is where they regularly drive trucks so the stakes may not be present. Pine took photos and said that she would send them to us.
- Camp Nekon Tree Cutting Trial – The trial was held on March 30th and was dismissed without prejudice even though the Conservation Agent was told by the victims advocate that it was dismissed with prejudice.
- Nobadeer Village Stormwater Review – South Shore Survey is reviewing the existing drainage calculations to determine if the stormwater runoff from the site meets the MA stormwater standards as well as the plans as they were proposed for treatment of stormwater. Changes to the plans were made by Mr. Dacey on the drainage site off of Wapping Road. The last two occupancy permits will not be issued until this is resolved.
- NPDES Phase II Report – Due May 1st

7:35p.m. Continued a Public Hearing for a Notice of Intent for Off Elm Street, Map 62 Lots 5 through 13, Map 71 Lots 1 through 10 and 12 through 21, Map 79 Lots 2 through 4

Present: Deb Keller, Peter Opachinski, Dana Miller

Maureen Thomas stated that she reviewed the stormwater review for the Planning Board received from Tibbetts Engineering. She stated that she spoke with Bruce Babcock regarding a review for the Conservation Commission. Based on the scope of work that he provided, the cost would be approximately \$3000.

The chairman requested a copy of the field notes from Dan Wells.

Discussion regarding Isolated Land Subject to Flooding

Deb Keller reviewed the certified and potential vernal pools on the plan. She stated that series O, M, N, D, and H were identified as non-vernal pools.

Discussion regarding the stormwater review

The chairman stated that quite a few basin areas didn't appear to meet the 100 year storm which would not meet the Conservation Commission Regulations.

Deb Keller stated that they worked with Natural Heritage and Endangered Species Program (NHESP) regarding the detention basins and some areas needed to be made smaller. She stated that they needed to maintain the turtle paths and install two turtle crossings. She stated that detention basins 1, 2, 5 and 8 would hold a 100 year storm. Detention basins 6, 7 and 10 would hold a 2-25 year storm and detention basin 3 was located in a low point of the road system.

The chairman stated that the Commission could possibly waive the 100 year storm requirement for the detention basins that currently are not designed to meet the 100 year storm, but the areas would need to be improved with low impact development drainage techniques.

Maureen Thomas asked about pre and post development drainage impacts downstream.

Deb Keller stated that groundwater was a few feet below the surface and does supply the resource areas. She stated that it would be difficult to comply with the local regulation of infiltrating everything with no surface runoff.

The chairman asked if NHESP required any mitigation for the nesting areas.

Peter Opachinski stated that an old cranberry bog that was not doing well would be converted to a nesting area.

Sue Chamberlain asked if groundwater would be recharged.

Deb Keller stated that seven out of the eight basins would infiltrate and roof drywells would help recharge as well.

The chairman requested that the applicant look at the detention basins that currently do not meet the regulations and come up with alternatives to improve them.

Sue Chamberlain asked about a 21E.

Peter Opachinski stated that a 21E was done prior to taking possession of the property. He stated that there was one incident that did not exceed the reportable quantities.

Maureen Thomas read sections of the Stormwater Handbook including effectiveness and design (outlet structures).

Deb Keller explained the design of a typical outlet structure.

Maureen Thomas stated that the applicant is aware that they need to re-design detention basin C. She stated that she needed to know the difference between containing and controlling a 100 year storm and what the impacts would be.

Marilyn Kozodoy motioned to request the applicant to submit an initial \$3000 to hire Tibbetts Engineering to review the drainage.

Sue Chamberlain seconded the motion.

8:10p.m. VOTE: 6-0-0

Discussion regarding the walking trail system / ATV signage

Daniel King motioned to continue the Public Hearing.
Marilyn Kozodoy seconded the motion.

8:14p.m.

VOTE: 6-0-0

Continued to May 18, 2010 @ 7:30p.m.

Site Visit April 27, 2010 @ 4:00p.m.

8:15p.m.

Continued a Public Hearing for a Notice of Intent for Parting Ways Road,
Map 105, Lot 6

Present: Christian Farland

Maureen Thomas stated that egg masses were found in the A series delineation.

Christian Farland stated that he had met with the Water Department and they would not approve the less invasive water main loop. He stated that they discussed direct drilling.

The chairman stated that the Water Department would be meeting with the Conservation Commission on May 4th.

Christian Farland stated that hopefully the two Boards could come to an agreement.

Maureen Thomas asked if the Water Department knew that the area was a vernal pool.

Christian Farland stated that the Water Department knew that it was a potential vernal pool.

Sue Chamberlain asked Christian Farland to explain the three alternatives for the water main loop.

Christian Farland stated that they could perform conventional excavation down 5' and restore the area with replication, have the water main loop back onto itself (not considered a true loop because it ties into itself) or perform direct drilling under the vernal pool and buffer zones and install a continuous pipe with no joints.

Discussion regarding existing water main

The chairman stated that he would consider horizontal drilling.

Marilyn Kozodoy requested documentation showing examples and how successful directional drilling would/could be done under a vernal pool with no impacts to it.

Sue Chamberlain motioned to continue the Public Hearing.

Marilyn Kozodoy seconded the motion.

8:30p.m. VOTE: 6-0-0

8:34p.m. Opened a Public Hearing for a Notice of Intent for 26 Wilder Road, Map 61, Lot 7

Present: Joe Webby, Nate and Victoria Murray

Joe Webby presented the project to the Commission and the Public.

Maureen Thomas stated that she had a copy of a letter written by Joe Webby for a different property (38 Wilder Road) stating that they should meet the Rivers Protection Act. She stated that both projects were very different proposals. There was 3600 square feet of alteration on 38 Wilder Road. She stated that she spoke with the Department of Environmental Protection (DEP). Christine O'Diaga said that it could be requested as redevelopment. Greg DeCesar stated that lawn areas could be regulated as previously degraded areas. She stated that as a redevelopment application the applicant would need to prove that they were enhancing the Riverfront Area. She stated that the proposed addition would calculate to 1.1% of the Riverfront Area. The Commission should perform a site visit to evaluate the Riverfront Area delineation.

The chairman stated that the Commission never considers lawn area as previously disturbed. The Commission has set a precedent that a lawn area is not considered disturbed.

Maureen Thomas asked if the addition was proposed to be built on a slab.

Nate Murray stated that it was proposed to be built on a slab. He stated that his vehicles would be put inside the garage keeping any runoff that would include fluids from the vehicles from infiltrating the Riverfront Area.

Sue Chamberlain motioned to continue the Public Hearing.
Marilyn Kozodoy seconded the motion.

8:43p.m.

VOTE: 6-0-0

Continued to May 4, 2010 @ 8:45p.m.

Site Visit April 28, 2010 @ 4:30p.m.

8:47p.m.

Opened a Public Hearing for a Notice of Intent for Main Street, Map 58,
Lots 92, 94, 96, 97 & 110

Present: Robert Kraus, Esq., Joe Webby, John Rockwood

Joe Webby presented the project to the Commission and the public.

John Rockwood reviewed the resource areas and replication areas including the buffer area re-plantings.

Robert Kraus, Esq. stated that he believed that this project was remanded back from an appeal of a ZBA decision for further discussion to hopefully reach a compromise but that he was not involved in the project at that time.

The chairman stated that the Commission would need an alternatives analysis submitted to support their proposal to fill and replicate wetlands.

Robert Kraus, Esq. stated that he believed the entrance from Main Street represented a compromise.

The chairman stated that wetlands would not need to be filled if the projects entrance were from Baker Avenue. He stated that an alternatives analysis was needed and that they would need to demonstrate that they have to use Main Street for access.

Maureen Thomas stated that the Commission should wait to request money from the applicant to have the drainage reviewed.

William Kavol asked where the court papers were that discussed the project being remanded for compromise.

Robert Kraus, Esq. stated that he did not represent the applicant at that time and is only discussing what he believed to have happened.

Maureen Thomas stated that DEP may require a water quality certification.

John Rockwood stated that a deed restriction could be done in lieu of a water quality certification.

Al Sylvia from 7 Baker Avenue stated that there was a brook running through the property all the time and asked if a bridge was proposed.

Maureen Thomas stated that the applicant's representative has been asked this question in a series of questions that are awaiting response.

Patricia Martin from 88 Main Street stated that the traffic issue was the driving force behind having the entrance off of Main Street.

Robert Kraus, Esq. stated that this represented a compromise from the original 40B.

Daniel King motioned to continue the Public Hearing.
Marilyn Kozodoy seconded the motion.

9:07p.m.

VOTE: 6-0-0

Continued to May 18, 2010 @ 8:00p.m.

9:07p.m.

Opened a Public Hearing for a Request for Determination of Applicability for Routes 3, 3A, 53 and 80

Present: Thomas McGuire

Thomas McGuire presented the project to the Commission.

Thomas McGuire presented Mass DOT tree removal guidelines to the Commission.

Maureen Thomas asked when the work was proposed to occur.

Thomas McGuire stated that the work would occur as soon as possible and would be ongoing for three years.

Maureen Thomas asked if there would be any impacts to fish migration if there were trees that needed to be cut in the river.

Thomas McGuire stated that there shouldn't be any impact to fish migration because the tree cutting would be a constant moving project.

Daniel King motioned to issue a Negative Determination of Applicability. Sue Chamberlain seconded the motion.

9:18p.m. VOTE: 6-0-0

Marilyn Kozodoy motioned to close the Public Hearing. Sue Chamberlain seconded the motion.

9:18p.m. VOTE: 6-0-0

9:18p.m. Opened a Public Hearing for a Request for Determination of Applicability (RDA) for Route 3

Present: Thomas McGuire

Thomas McGuire presented the project to the Commission.

Thomas McGuire presented the Department of Agricultural Resources Regulations and Mass DOT's Regulations to the Commission.

Thomas McGuire reviewed the sketches submitted with the RDA.

The chairman stated that there was a vernal pool within 100' of where the 40R was proposing a ramp.

Thomas McGuire stated that a no spray zone could be placed on any area within 100' of the vernal pool. He stated that only guardrail is included in the spraying. There is no spraying if there is an earthen berm.

Daniel King motioned to close the Public Hearing. Marilyn Kozodoy seconded the motion.

9:37p.m. VOTE: 6-0-0

Daniel King motioned to issue a Negative Determination of Applicability. Marilyn Kozodoy seconded the motion.

9:37p.m. VOTE: 6-0-0

Reviewed the draft minutes of March 2, 2010

Sue Chamberlain motioned to accept the minutes of March 2, 2010 as corrected.

Ryan Overholt seconded the motion.

9:40p.m. VOTE: 6-0-0

Reviewed the draft minutes of March 16, 2010

Ryan Overholt motioned to accept the minutes of March 16, 2010 as corrected.

Daniel King seconded the motion.

9:43p.m. VOTE: 6-0-0

Reviewed the draft minutes of April 6, 2010

Ryan Overholt motioned to accept the minutes of April 6, 2010 as submitted.

Daniel King seconded the motion.

9:44p.m. VOTE: 6-0-0

Ryan Overholt motioned to adjourn.

Daniel King seconded the motion.

9:44p.m. VOTE: 6-0-0