



Kelley Freda
Chairperson

CONSERVATION COMMISSION

City of Leominster, Massachusetts

CITY HALL - 25 WEST STREET
LEOMINSTER, MASSACHUSETTS 01453
www.leominster-ma.gov

Joanne M DiNardo
Conservation Agent
conservation@leominster-ma.gov

telephone (978) 534-7524 facsimile (978) 840-8034

Leominster Conservation Commission
PUBLIC MEETING LEOMINSTER
25 West St, Room 10
Feb 10, 2015 7PM
Meeting Minutes

I. In attendance:

Kelley Freda - Chairperson	Conservation Agent / Environmental Inspector - Joanne M DiNardo
Daniel Brodeur	
Larry Gianakis, Jr.	
Julia McKinney	
Scott Pearson	

II. The meeting is opened at 7:00p.m.

III. Hearings

7:00 PM

Pursuant to MGL CH 131 S 40 as amended, there will be a public hearing on a Notice of Intent by US Army Corps of Engineers, New England District for construction of emergency riverbank erosion protection along the south bank of Slack Brook adjacent to Exchange Street. The riverbank erosion protection consists of a stone revetment on the lower bank and the geocell structure with seeded topsoil on the upper bank. Address: Exchange St, Assessors Map 544-6, 126-9 and City of Leominster ROW. DEP 199-1006.

1. Rob Russo, Project Manager, US Army Corp of Engineers (USACE) represents the project, along with Jeffrey Teller, Chief Appraiser, USACE, New England District, Mike Penko, Ecologist, USACE, New England District and J. Masey. They will start at the old granite dam at the west end of the project and they will end at the stone wall on property of 139 Exchange St. There will be excavation and realigning the boulders in the brook.
2. Current copies of the plans have been submitted.
3. Mr Russo says the project will be competitively bid.
4. Freda asks Mr Russo to review the plan for the abutters. He explained that they only have authority to protect public safety and public roadways. He then opened the session to the abutters for questions.
5. Resident Jane Buswell of 139 Exchange St. is concerned of the south side of the brook. Mr Russo says there will be no endangerment to the street. The sandy gravelly slope on the opposite side will not be addressed with this project.
6. Buswell asks will this be built on a slope. Rob says yes on a slope towards the street and will be 1.5' to 1' slope. For every 1 foot up they go over 1.5 feet. They will be using geo-cells, and on the upper slope vegetation and then guard rails at the top.
7. How far from the edge of the road to the brook asks Andrew Buswell.
8. Mr Russo explains riprap at the end of the project that will dampen the velocity of the brook.
9. Ms Claire Freda, City Councillor, asks that a work plan with a diagram be placed on the easel to show people the extent of the work. Sheet C102 is put on the easel
10. Mr Russo displays a diagram of the work area and explained each section of the work area beginning with the granite dam and downstream to 139 Exchange St. He explained the extent of work that would take place.
11. Mr Buswell explained that the pools are washed out due to the speed of the water that flows.
12. Mr Russo stated the wall will help to dampen the velocity. Exchange St will remain and there will be riffles and pools kept along the stream. They are pulling the wall back to the street as much as possible.
13. Mike Penko explains the design and notes that there are a number of riffles and pools. This is a cold water fishery and they will be working with a restoration specialist. There's 1300 sq. feet of the low flow channel will be affected. A few of the pools will be altered. A fisheries specialist will be on site. They hope to restore or recreate fisheries habitat. Mr Penko explained several construction methods were reviewed but the riprap and geo cell construction makes the most sense.

14. Freda asks if there are Commission members who have questions at this time.
15. Larry Gianakis, Jr. asks what will be done for stabilization. Penko says that they hope to do the work in short segments that can be completed in a day. The on-site contractor can plan for any storms.
16. Gianakis asks about the plantings on the slope and asked if it is OK to plant on the slope. Penko says yes that is OK.
17. Jane Buswell asks what is a geocell. A plastic, stretchable, honeycomb structure. It is filled with soil; it can be set at a steep slope, and protects the soil from erosion. It is an extra layer of protection. They generally vegetate by themselves.
18. Kelley Freda asks are there any other commissioners who would like to speak on this hearing.
19. There are no further questions.
20. Jane Buswell asked if a fence can be installed. Mr Russo explains that it may be possible. Gianakis is concerned that this may be a barrier to wildlife. Mr Russo says he will do whatever the Conservation Commission suggests. Mr Buswell expressed concern regarding people climbing up not the walking down that is a concern. Ms Buswell stated that the teachers from the High School take students on nature walks in the brook. Kids are constantly crossing over the brook.
21. Jane asks about the trees/limbs that may end up in the brook. She asks who is responsible. The answer is the city. All the trees were cut down by the city. The base of the trees are still laying on the slope. Who will be removing them if the fall into the brook.
22. Andrew Buswell asks about a 100-year event coming and water in the basement. They have never been flooded and do not require Flood Insurance. What if he floods due to the change in wall? He asks who is responsible for that. Julia McKinney asks if he is in a floodplain. Andrew says he is not. McKinney says check with an attorney and with your insurance as laws have changed. Freda asks will the height of the bank be changed. Mr Russo says no it will not be changed. Ms Freda asked if the height of the bank will change. Mr Russo explained no – the top of bank will be the same.
23. Jane asks about plantings. Mr Russo says they will clear the bank and will work in small sections over a three month period. 7:25 Ms Buswell asked who will be maintaining the banking in the future. She has been mowing it but is has been taken over by poison ivy. Mr Russo explained that they will be planting wildflowers and hopefully will be low maintenance. The city will take over the maintenance.
24. Freda asked for any more questions from the audience. Maria Delgado, 135 Exchange St stated that she shares the driveway with the Buswells and had many of the same questions. Mr Buswell stated that they both have sink holes in their driveways caused by the erosion. Mr Russo stated this project should slow down the velocity. However the sink holes and stone walls along the brook would be a private property matter. The Corp cannot address private property. Ms Buswell asks if the Commission will consider adding a fence. Ms Freda stated they would consider it when they vote.
25. Freda asks for any more comments from the Commission.
26. Gianakis asks about the amount of material in the floodplain. Penko says there will be a net gain of 190 cubic yards.
27. Freda asks for emergency contact phone numbers for project managers in case there is an erosion issue. Mr Russo explains this is part of the submittal process.
28. Freda asks for a hazardous material spill kit on site. This will be done.
29. DiNardo asks Mr Russo if he can speak on the traffic on Exchange St. while the project is going on. J. Masey from USACE explains that he believes the preference is for an auto lighted system.
30. Freda asks does anyone in the audience wish to speak on this hearing. She asks three times. No
 - a. one comes forward.
31. Freda asks if there are any objections to close the public hearing. There are none. The public hearing is closed at 7:38pm.
32. Freda asks for DiNardo's recommendations. They are:
 - a. Pre-Construction meeting and notices to abutters
 - b. Construction Schedule must be submitted prior to start of work
 - c. Erosion Controls must be approved by Conservation Agent (48 hour written or email notice)
 - d. 24 Hour notice prior to start of work
 - e. BI-Weekly Update Reports
 - f. Rain Event Plan
 - g. No stockpiling within 50 feet of resource area
 - h. All stockpiles must be covered
 - i. Restoration to meet specifications
 - j. As Built Plan upon completion
 - k. Maintenance plan prior to Certificate of Compliance
 - l. Emergency contact list prior to start of work
 - m. Hazard material spill kit
 - n. Evaluate need for safety fence
33. Freda asks for a motion to issue an order of commissions with no decision on the fence in the motion. The fence will be discussed with the DPW at a later time.
34. There is discussion of a fence and whether one will be put up or not. There are deer and turkeys to consider. Gianakis does not want to endanger and wildlife. Pearson says the DPW should handle the question of the fence or not.

35. Scott Pearson makes a motion to issue a standard order of conditions with DiNardo's 13 recommendations and a note for the record that the DPW will discuss the feasibility of a fence for construction of emergency riverbank erosion protection along the south bank of Slack Brook adjacent to Exchange Street. Address: Exchange St, Assessors Map 544-6, 126-9 and City of Leominster ROW. DEP 199-1006. McKinney seconds the motion. The motion is unanimously approved by the Commission.

IV. Regular Meeting, 7:47 pm

1. Call to Order
2. Certificate of Compliance
 - a. Mass DEP 199-955 MART, the person representing is not here.
 - i. Freda reads a letter from Project Manager Ted Fiffy into the record. It is dated November 3, 2015:

I am writing to request the Leominster Conservation Commission issue a Certificate of Compliance for the North Leominster Commuter Rail Station Parking Facility Project located at 36 Nashua Street in North Leominster. This project was constructed under an order of Conditions issued to the Montachusett Regional Transit Authority in July, 2012 under DEP File No. 199-0955.

As Owners Project Manager I personally supervised and inspected the construction and certify that all work was performed and completed is in accordance with the plans and specifications approved by the Leominster Conservation Commission, the Order of Conditions issued May 8, 2012 and all requirements of MGL 131 S40.
 - ii. DiNardo says all was done per order of conditions. DiNardo recommends certificate of compliance (with on-going conditions.)
 1. In perpetuity that they issue the as-built;
 2. They have a registered professional engineer;
 3. The stream underneath the parking lot is so noted;
 4. There is no dumping, no additional alterations; and,
 5. Additional alteration is prohibited.
 - iii. Gianakis makes a motion for a certificate of compliance for Mass DEP 199-955. McKinney seconded. It is unanimous by the Commission.
 - b. CSX – DEP 199-973 CSX
 - i. Attorney Dianne Phillips speaks to the project. A completion report was submitted. 1 Year monitoring was submitted. The work has been completed.
 - ii. DiNardo has been to the site and has done a final site walk.
 - iii. The area is stable. DiNardo wishes to issue a certificate of compliance as she review the on-going conditions:

Maintenance Agreement as noted in Section 2.5 of 2012 Settlement Agreement, to which the City was a party, the maintenance obligations described in the ninth covenant of the deed dated December 15, 1988 from Consolidated Rail Corporation to MP Corporation, as Trustee of North Central Technology Park Realty Trust, recorded with the Worcester North District Registry of Deeds, Book 1772, Page 244, remain in full force and effect. Once the project is fully constructed, each property owner remains responsible for any future work on its own property.
 - iv. Pearson makes a motion to issue a certificate of compliance along with DiNardo's recommendations for CSX – DEP 199-973 CSX. Brodeur seconds the motion. It is unanimous by the Commission.
 - c. 5 Revolution Drive – DEP 199-373
 - i. Took place in 1991 and no certificate of compliance was issued. The homeowner wishes to sell the house and needs a certificate of compliance. DiNardo recommends a certificate of compliance.
 - ii. Gianakis asks was anything added. DiNardo says everything is in order.
 - iii. Gianakis makes a motion for a certificate of compliance 5 Revolution Drive – DEP 199-373. Pearson seconds the motion. It is unanimous by the Commission.
3. Extension Permits
 - a. DEP 199-0858, Lot 12 Sawyer Way
 - i. DiNardo offers her recommendation on the project to the Conservation Commission in a memo dated February 3, 2015:

I have reviewed this request and offer the following comments:

I met with Mr. Carlson on July 9, 2014 to review the project status. Mr. Carlson informed me that they would be placing the erosion controls and that the project would start up on July 15. The tree removal was the first step and that has already taken place. The erosion controls are in place and in good shape.

The original Order was issued on Jan 10, 2008 with an expiration date of Jan 10, 2011, Bk 6652, Page 1-15. The Permit Extension Act extended the order for 4 more years which would have put the expiration date at Jan 10, 2015.

Regulations: 310 CMR 10.05(8). State that the applicant "shall" request an extension 30 days before the OOC is due to expire. The law is not specific and no rulings have come down regarding extending an order that has expired. The MACC advises that some Commissions extend expired OOC's and some require a new filing. "Clearly, an OOC that expired years ago should be considered dead." An extension permit may be denied if no work has begun, interests of the WPA are not being met, there are violations of the OOC or Act, and or regulations have been amended that make the existing OOC no longer compliant with the regulations. Extensions may be granted through a public vote.

I conducted a site walk in July 2014 and again in Jan 2015. The site is stable. The site does have wetlands on it at the rear of the lot. The conditions include perpetual and additional conditions. There is a provision that a notarized letter is required signed by the property owner acknowledging the wetland restrictions. In addition there is a provision that whenever a 10 foot buffer of natural vegetation cannot be maintained, a line of large diameter boulders is to be constructed just outside the resource area. (Items D, E, and F.)

Under this circumstance I would recommend a 1 year extension to Jan 10, 2016. My reasoning is that the work has already started and the applicant is in compliance with the WPA. It would be an undue burden to make the applicant file for a partial COC and then start the process all over again for an OOC.

- ii. Freda asks if there are any questions. There are none.
- iii. Gianakis makes a motion for an extension for DEP 199-0858, Lot 12 Sawyer Way. Pearson seconds it. It is unanimous by the Commission.

b. DEP 199-0880, Off Dale Ave – Woodlands at Massapoag

- i. Freda enters a letter into the record from Anthony Cleaves dated February 6, 2015.

On behalf of our client, Massapoag Road Corporation, Whitman & Bingham Associates, LLC respectfully requests a three year extension to the Order of Conditions for the "Woodlands at Massapoag" residential subdivision off of Dale Avenue, (DEP #199-880). The current Order of Conditions, with the Permit Extension Act, is due to expire April 23, 2015.

A substantial portion of the project has been completed including the roadways and main utility infrastructure, with approximately half of the houses completed or under construction. The majority of the work remaining includes the construction of the remainder of the lots (approximately 11), five of which are within the wetland buffer zone.

- ii. DiNardo has been to the site. They are in compliance at this site. She recommends an extension permit.
- iii. Freda asks are there any questions from the Commission.
- iv. Gianakis asks should we just do a 1 year extension rather than for 3 years.
- v. Gianakis makes a motion to issue a 1 year extension for DEP 199-0880. Second by Pearson. It is unanimous by the Commission.

4. Enforcement

- a. 554 Willard/22 Jytek. DiNardo did get an update. However, everything now is frozen. Soil still needs to be sampled so nothing is being done as yet.
- b. Hill Street – Cutler Conservation Property – Tree Cutting. DiNardo explains the property; she is bringing the cutting concern to the Conservation Commission since it is conservation property. She recommends that the homeowners are told that this is conservation property. They should be told to cease and desist until the site is surveyed.
- c. Pearson makes a motion to send a letter to the people adjacent to 288 Hill to cease and desist all tree cutting until surveying is completed to determine where conservation land begins. McKinney seconded. It is unanimous by the Commission.

5. Communications

- a. Comments – Planning 1290 Main St. Site plan approval for the old weathervane. Site development for a retail center. DiNardo says there are no wetlands over there. DiNardo will key a letter.

6. Minutes

- a. November 25, 2014, address the next meeting.

7. Old Business, there are none at this time.

8. New Business

- a. DEP 199-0933, 96 Old Tavern Road – new address 1 Royal Oaks - Minor Modification. The Old Tavern came in; they shifted the front of the house. Now they have changed the address. Conservation Commission does not require them to come in.

9. Emergency Certifications, there are none at this time.

10. Agent's Report:
 - a. We have a new circuit rider (Judy Schmidts). She offered her assistance to DiNardo. DiNardo made her aware of two – three locations of concern.
 - b. Gianakis asks about snow storage over 6 feet. Is there anything city wide. DiNardo says nothing city wide it is all site by site. Gianakis is concerned with anything in flood plain. DiNardo makes mention of the project at Rockwell. Freda says if this is in our conditions then it must be removed. Freda suggests that DiNardo start with a phone call then follow up with a letter.
 - c. Massachusetts Association of Conservation Commissions annual Environmental Conference 2015 is at The College of the Holy Cross on Saturday, February 28, 2015. Registration begins at 8:00 a.m. For more information: http://www.maccweb.org/edu_aec_2015.html
11. Sign Papers
 - a. OOC, COC, Ext Permits
12. Chairman's Report, there are none at this time.
13. Next Meetings
 - a. Feb 24, 2015 Deadline Feb 13, 2015
14. Adjournment at 8:17pm

Respectfully Submitted,

Sandy Pellecchia
Scribe