

Present: Elliott presiding, Dinsmore, Masterson, Rand, Rice, Steeves Absent: Boeing

2/5/2019 - Minutes

1. Public Hearings, Public Meetings & Appointments

- A. 7:00 PM - Public Hearing Re: Abbreviated Notice Of Resource Area Delineation Filed By Mass. Composting Group For Review Of A Resource Area Boundary Delineation (BVW And Riverfront) At 161 Nashua Road In Pepperell.

Public Hearing Re: Abbreviated Notice of Resource Area Delineation Filed by Mass. Composting Group for Review of a Resource Area Boundary Delineation (BVW and Riverfront) at 161 Nashua Road in Pepperell.

Mass Composting, the property owner, was represented by Scott Smyers and Matt Charpentier with Oxbow Associates, Attorney Douglas Duchesne, and Matthew Waterman with Land Tech Consultants. Scott Smyers with Oxbow Associates spoke on behalf of Mass Composting Group. Chairman Elliott asked if they had received the comments provided by MassDEP, which they had. Smyers stated they were here to discuss the wetlands on the property. Not the future use of the property. Smyers identified the wetland resource areas on the plan, including the Nashua River, with some wetlands associated with the river, a bordering vegetated wetlands system near Nashua Road, and the flood zone, which was mentioned in the comments from MassDEP. Smyers provided clarification about two different flood zone designations and an error shown on the plan. Zone A is the 100-year flood zone and Zone AE is the 100-year flood zone with elevations. The flood zone on the plan located near Nashua Road was incorrectly identified as Zone AE, but is actually Zone A. They plotted Zone A, as is, with no elevation because there is no reference elevation. The flood zone near the river has elevations between 177 and 178 on the FEMA map and they used 178, just a graphic interpretation from the FEMA map without actual topography. They will get additional topo for the area near the river to more clearly show elevation 178. Smyers said they are requesting the BVW, riverfront, and BLSF be confirmed. The ANRAD submitted requested BVW and riverfront. They will revise the ANRAD to add BLSF. Rand pointed out on the plan a culvert near Dow Street, with a potential intermittent stream, though it may be offsite. Rice asked about the dotted line shown on the property near Nashua Road. This was identified as Zone II of the Nashua Road municipal well. Terrasi stated the time of year with snow, ice, and frozen ground, makes it nearly impossible to confirm hydric soils. Terrasi stated Oxbow had visited the site twice in January of 2018 and then again in October 2018. Both vegetation and soils were used by Oxbow for their delineation. Elliott stated the Commission would like to provide a speedy review but this would be weather dependent. Terrasi suggested an outside consultant review the delineation. Attorney Duchesne acknowledged the Commission's authority (GL Ch. 44 § 53G) to hire an outside consultant to review the delineation. The Commission provided the names of three consultants. Attorney Duchesne and the other representatives of Mass Composting conferred and agreed they had no conflicts with the three consultants. Attorney Duchesne would like the Commission to confirm their availability and the costs. The representatives of Mass Composting understand they are required to pay for the consultant. The ANRAD will be updated to address MassDEP's comments. The Public Hearing was continued to March 5, 2019.

- B. 7:15 PM - Continuation Of Public Hearing Re: Notice Of Intent Filed By Eric Heider For Construction Of A Single-Family House, Detached Garage, Well, Sewage Disposal System & Driveway At 148 South Road Within BVW And Associated Buffer Zone.

The public hearing for 148 South Road will be re-advertised.

2. Review Of Draft Minutes

- A. Review Of Draft Minutes Of January 8, 2019

On a motion from Elliott, seconded by Rand, all

VOTED: to accept the draft Minutes of January 8, 2019 as drafted.

3. For Signature: Schedule Of Bills Payable

None

4. Conservation Administrator's Report

A. Request For Certificate Of Compliance - 73 River Road/Lot 1, DEP File 259-260

A Request for Certificate of Compliance was received for 73 River Road. An as-built plan has been provided. Terrasi visited the site for this project, which took place in 2000. On a motion from Elliott, seconded by Rand, all

VOTED: to issue a Certificate of Compliance for 73 River Road/Lot 1, DEP File 259-260.

B. Discussion Re: Conservation Land Rules And Regulations, Brochure For Those Living Near Wetlands, And Proposal To Update Website By Pat Swain Rice And Emily Boeing

Rice provided the most up-to-date version of the brochure Those Living Near Wetlands. The brochure was enthusiastically received by the Commission. Given the last update to the Conservation Land Rules and Regulations was completed in 2002, it was determined additional time is needed for a thorough review of the Rules and Regulations.

C. 116-128 River Road - Update

Terrasi met with Town Administrator Andrew MacLean and developer Al Patenaude at the site on River Road to discuss the restoration of the town's right of way, which Patenaude had partially plowed under. It was agreed the restoration of the right of way would follow the existing dirt driveway, then continue along the tree line (not into the tree line) around the open area identified on the plan for #8 Maureen's Way and then continue onto the rail bed. Patenaude will be responsible for constructing the 15' right of way but before any work begins, he will provide a plan for approval to the Conservation Commission. The plan would be recorded at the Middlesex South Registry of Deeds.

D. MACC Environmental Conference 2019, Saturday, March 2, 2019 At College Of The Holy Cross

The MACC Annual Conference is scheduled for Saturday, March 2. A copy of the Annual Environmental Conference brochure has been provided to each Commissioner.

E. Open Space And Recreation Plan Final Approved Copy On Website - Valid Through February 2024

The final, approved Open Space and Recreation Plan is available, in searchable format, on the Conservation Commission page of the town's website. The Plan is valid through February 2024.

F. DFW Land Interest Of Conservation Commission Parcel

Anne Gagnon, Land Agent for the Division of Fisheries and Wildlife's (DFW) Northeast District, is working closely with the Dunstable Rural Land Trust (DRLT). The Trust owns land on Unkety Brook on the Pepperell/Dunstable line, on both sides of the brook. DFW has an interest in purchasing the Trust properties on Unkety Brook, which would provide financial assistance to the Trust for another land protection project the Trust is currently involved with. There is no frontage, no right of way, and no access through other properties. The State cannot own land unless the public has access. The TOP ConsCom has a small parcel that would provide access but there is a title issue. The deed was never recorded. The owner is amenable to the land being sold to DFW. The business has to be resurrected for a new deed to be signed because the business is no longer active and we have been unable to locate the original deed. Town Counsel is working with us. Gagnon was asked if the property could be sold directly to DFW but a Town Meeting vote and the taking of a charitable donation tax deduction by the owner of the property would prevent this. Gagnon stated that Article 97 disposition is required. Gagnon was asked if Article 97 disposition could be avoided by having the TOP provide an easement. Gagnon stated Article 97 disposition would be required if an easement were granted because it involves a transfer of property, even if it is only a portion of a property. Gagnon stated the property is very small and wet but it is wildlife habitat, which is DFW's first priority. How does this work? Where do the funds go? Would it go to the General Fund? Gagnon stated there can be a Warrant Article at Town Meeting transferring the funds to ConsCom. A Town Meeting vote is required to transfer ownership. Concern was expressed that the Article 97 disposition could remove the protection of the property during the exchange. Gagnon explained the Article 97 disposition is a transfer of ownership for conservation purposes only. The property never comes out of the Article 97 protection. Gagnon has completed many, most recently in Groveland, of these transfers. The process includes Town Meeting and Article 97 disposition. Rice stated the town's land is public and open to the public so why is this process necessary. DFW is cautious about future allowed uses on properties, which could impact what is

allowed on the town property. The first step, is approval from the Commission. The second step, the BOS would vote. Then Town Meeting would vote. Then Gagnon drafts legislation for Article 97 and the Selectmen request our local rep present the legislation. Gagnon is involved with the entire process. How is the value of the land determined? Undevelopable because it is already protected. Gagnon is working to protect a corridor along Unkety Brook in Dunstable and Pepperell. On a motion from Elliott, seconded by Rand to provide Conservation Commission approval for the transfer of the property at 148 Lowell Road for \$4,000 to the Mass Division of Fisheries and Wildlife, all
VOTED: to approve the transfer of the property.

G. Rain Barrel Program

Would the Town of Pepperell Conservation Commission be interested in joining with the Town of Tyngsboro to offer rain barrels to residents? Terrasi has been contacted by the Great American Rain Barrel Company and the Town of Tyngsboro who have asked if the Commission is interested in getting Pepperell involved with the program. Commissioner Dinsmore said he uses several rain barrels for watering his property and he supports the use of rain barrels. The Commission supports the Program. Terrasi will work with the Great American Rain Barrel Company and the Town of Tyngsboro to kick off the Program in Pepperell.

H. Master Plan Visioning Session For Open Space, Recreation, Cultural, And Historical - February 7, 2019, 6:30 - 8:30 PM Pepperell Senior Center

Please attend the next Visioning Session for the Master Plan Committee. With Open Space as a topic for discussion at the next Visioning Session, it is important for the Commission to be represented at the meeting.

I. Kestrel Boxes At Heald Orchard

Terrasi was contacted by an individual who would like to properly relocate and monitor the kestrel boxes at the Heald Street Orchard. This will be an excellent opportunity to learn more about these birds, which have seen a significant decline in population. The boxes were part of an Eagle Scout project and relocating the boxes to help encourage nesting kestrels to use the boxes will be extremely beneficial.

J. Hunting With Birds At The Heald Orchard

Andrew Jubinville and Arthur Menezes are state licensed falconers, and as licensed falconers, they are required to obtain permission from landowners to fly their birds. They are required to follow all state hunting regulations, with their season ending on March 15. They hunt i.e., using squirrels and rabbits during the various hunting seasons (i.e. squirrels or rabbits). Andrew brought with him his second season red-tailed hawk. The Orchard was posted so they attended the meeting to request permission. They fly when the gun hunters are no longer around because they are cautious of hunters shooting their birds. They use trained dogs to get the rabbits moving. There are different styles of hunting for different birds. They use telemetry to track the birds after they have taken off. How do these birds get along with resident birds? The resident red tails will win out typically by aggravating the birds. Are there risks with bobolinks? No, because of time of year. They visit various locations to fly their birds. The red tailed was allowed to be taken as a juvenile. They keep the birds typically two years and then release them. Once released, they revert back to the wild. On occasion they rescue birds. On a motion from Elliott, seconded by Rand, all

VOTED: to allow falconry at the Heald Street Orchard. Terrasi will send letters to both falconers giving them permission to use the Heald Street Orchard for falconry.

5. Other Business

Mead Tree Service

Mead Tree Service will be removing trees on town-owned Conservation Commission property, where a potential

6. Matters That May Be Raised That The Chairman Didn't Reasonably Anticipate

There are no public hearings on February 19, 2019 and the meeting will not be held.

Respectfully submitted,
Paula Terrasi
Conservation Agent