

# Conservation Commission



19 WASHINGTON STREET  
SHERBORN, MASSACHUSETTS 01770

April 7, 2011  
Sherborn Town Hall  
7:00 P.M.  
Minutes of the Meeting

**Members Present:** Steve Gaskin (Chair), Alex Dowse, Michael Lesser, Susan Tyler, Andrea Stiller (arrived @ 7:10), Kelly McClintock, Will Willis (arrived @ 7:05), Bridget Graziano (Agent/Administrator)

**Guests:** Brad Mitchell, Allan Anderson, Brian Comisky, Chere Jalali, Dick Cugini, Pete Meagher, David Stowe, Bob Bois, Justin Szeto, Jonathan Dowse, Bob Barnicle

**Call to Order:** Steve Gaskin called the meeting to order at 7:00 p.m.

## **Requests for Determinations of Applicability/Enforcement Orders:**

**174 Farm Road – (Proposal to construct an addition)** – No one was present to represent the applicant. Mr. Willis (a Commission member) was not present at this time during the meeting. The Agent presented the project and noted that a perennial stream is located at least 300' away and a bordering vegetated wetland is located at least 200' away from the proposed project. The Agent recommended a Negative Determination based on this information. Mr. Gaskin moved to approve the Agent's recommendation for a Negative Determination. Mr. Lesser seconded, it was voted to approve 6-0.

**75 Maple Street – (Ratify Enforcement Order)** – The property owner, Brian Comisky was present. The Agent presented information on the violation found on Mr. Comisky's property on March 25<sup>th</sup>, 2011. The Agent had been contacted by the acting Fire Chief, Jonathan Dowse, who explained that a resident had been burning in the wetland resource. The Agent and Ms. Tyler completed a site visit the same day. The Agent issued an Enforcement Order after the site visit and is requesting the Commission review the requirements and ratify the Order at this meeting.

Mr. Gaskin moved to ratify the Enforcement Order, Mr. Lesser seconded, it was voted to approve, 5-0-. Mr. Dowse abstained noting his relation to the Fire Chief.

**14 Meadowbrook Road – (Proposal to perform Soil Testing)** – No one was present to represent the applicant. The Agent gave a brief overview of the project and recommended a Negative Determination of Applicability as there are no wetlands resources located in the area of the proposed work. Mr. Gaskin moved to approve the Agent's recommendation for a Negative Determination. Mr. Lesser seconded, voted to approve 5-0.

Will Willis entered the meeting 7:05 PM

**127 North Main Street – (Proposal to demolish and reconstruct barn/garage)** – No one was present to represent the applicant. The Agent presented the project proposal and recommended a Negative Determination, noting that all work shall take place outside the Commission's jurisdiction. Mr. Lesser motioned to approve the Agent's recommendation for a Negative Determination. Mr. Willis seconded, it was voted to approve 6-0.

Andrea Stiller entered the meeting at 7:10 PM

**168 Woodland Street – (Proposal to remove approximately 35 Trees)** – The Applicant's, Allan Anderson and Chere Jalali were present for the meeting. The applicant is proposing to remove approximately 35 trees (due to concern for safety) and pave the existing gravel driveway. The Agent explained that the property and the proposed project are within several jurisdictional areas, a Vernal Pool, the bordering vernal pool habitat, and a perennial stream along with the corresponding buffer zones and riverfront. The proposed trees to be removed are within the Vernal Pool Habitat Zone, Riverfront, and 100' buffer zones. The Vernal Pool Habitat Zone is considered a wetland resource under our bylaw and the Agent noted her concern for alteration of the resource area should all 35 trees be removed.

Ms. Stiller noted that some of the trees proposed to be removed are located on altered land known as lawn. The Commission discussed how conceptually the removal of a trees could alter the resource if removed, such as by reducing habitat and canopy, changing the surface water temperature, etc. The Commission agreed that the trees around the Vernal Pool were the most important to retain and acknowledged these same trees were the ones that the Applicants most wanted to come down. The town's Tree Warden, Jonathan Dowse, was present in the audience and agreed to visit the site and determine the health of the trees with the Agent. The Applicants agreed to this and agreed to sign a 21 day waiver form and continue the discussion to the next meeting on April 21<sup>st</sup> so the applicant may provide more credible evidence showing the removal of trees will not affect the wetland resource and they are posing a threat to her family and house.

**15 Cider Hill Road – (Proposal to replace a distribution box)** – No one was present to represent the applicant. The Agent explained a bordering vegetated wetland is located north of the site, but the proposed work is outside of the Conservation Commission's jurisdiction. The Agent recommended a Negative Determination. Mr. Lesser moved to

approve the Agent's recommendation for a Negative Determination. Mr. McClintock seconded, it was voted to approve 7-0.

## **Public Hearings**

### **Public Hearing 1- Amendments to the Sherborn Bylaw Regulations**

- i. Section 2 Definitions- previously discussed at 1/6/2011 and the 2/3/2011.

Section 5.1 Determination of Applicability- Section 5 Procedures – Section 5.1.2  
Determination by Commission: If a Positive Determination is issued, meaning that the project will alter an area subject to protection and may have a significant effect upon the interests defined in the wetlands by-law and these regulations, the applicant must file a Notice of Intent.

If a Negative Determination is issued meaning one of the following applies:

- a. The proposed project will not take place in an area subject to protection under Act or the Sherborn Wetlands Bylaw
  - b. The proposed work will not alter, remove, fill or dredge, but will take place within an area subject to the Act or the Sherborn Wetlands By-law
  - c. The proposed project will take place within an area subject to protection, but the Commission determines that either as presented or subject to conditions it will not have a significant effect upon the interests defined in the Act and/or the Sherborn Wetlands By-law and these regulations
  - d. The proposed project is exempt from the Act and/or the Sherborn Wetlands By-law
- ii. Section 5.2 Notice of Intent- not discussed
  - iii. Section 5.4 Fee Schedule- not discussed
  - iv. Section 5.4.1 Filing Fees and Policies- not discussed
  - v. Section 5.2.6 National Heritage Filing- not discussed
  - vi. Section 5.5 Hearings- not discussed

Alex Dowse moved to have the Town Counsel review past and proposed amendments to the wetland regulations for their consistency with the Sherborn Wetlands Bylaw, Ms. Tyler seconded, voted to approve 6-1. Mr. Willis voted against the motion.

The Commission discussed that a letter would be sent to the Town Counsel requesting the review of the Wetlands Bylaw and its Regulations with the proposed amendments. The review is to determine if there is consistency between the regulations and the bylaw. Mr. Gaskin asked that the Agent draft the letter to Town Counsel and he and Mr. Dowse would review it before distribution. Mr. Gaskin volunteered to represent the Commission before the Board of Selectmen, if necessary.

Mr. Dowse moved to continue the hearing to the next meeting at 8:01pm on April 21<sup>st</sup>, seconded by Ms. Tyler, it was voted to approve 7-0. Mr. Lesser moved to amend the vote to April 21<sup>st</sup> at 8:00pm. It was seconded and it was voted to approve 7-0.

## Discussions

### Discussion 1 Sassamon Trace Golf Course Annual Review-

Mr. Dowse recused himself.

Mr. Peter Meagher (the Sassamon Golf Course Manager), Richard Cugini ( Natick Parks & Recreation Dept.), David Stowe David Stowe (Sterling Golf Maintenance Director), Bob Barnacle (Sterling Golf Superintendent), and Bob Bois (Natick Environment Officer) were present to discussed the Annual Report for the Sassamon Golf Course Testing Result and IPM/Organic Management. The purpose of this discussion is the annual review of the Sassamon Trace Golf Course compliance with the Ongoing Conditions for maintenance and monitoring under the Certificate of Compliance.

David Stowe presented the 2011 annual report for the IPM and organic management in 2010. The list of chemicals which used in 2010 was the same as when the course began, the only differences are the amounts used. Progress toward organic management was limited to, trying liquid compost in combination with the usual chemicals applied and the use of corn gluten to treat crab grass.

Peter Meagher presented the testing results. There were two pesticides which were found at detectable levels: a grub control product (halofenozide) was found in monitoring well TH-11 and breakdown products of banned pesticide , 4,4 DDT which tends to bind to sediment and probably has been there for years as the chemical is no longer is legal to use. Norfolk Ram recommends sampling for these chemicals in future samplings.

Sassamon Golf Course and the Town of Natick have requested in past years for Sherborn to amend the current condition in perpetuity under the Certificate of Compliance. The Commission has requested a peer review of the annual reports, annual testing regime, and other information and data to provide credible evidence for whether or not the Commission should amend (reduce) the testing regime to that of Natick's (as amended in 2010). The Town of Natick has agreed to work with Sherborn Conservation Commission to draft a scope of work for the peer review consultant and provide the funding. Natick requested one proposal for the hire of a peer review consultant and submitted the proposal to the Sherborn Commission. The Sherborn Conservation Commission discussed Natick's scope of work submitted for peer review and other Commission members' thoughts on the scope of work. The Agent provided all the estimates obtained by her in 2009 for a peer review. Mr. Gaskin volunteered two members, Mr. Lesser and Ms. Stiller, to work with the Agent on drafting a scope of work to send out to request proposals for peer review. Mr. Bois and Mr. Meagher stated they would like to review the scope of work drafted by the Commission.

Mr. Brad Mitchell, a member of the audience, from the MA Farm Bureau Federation provided the Commission with some resources that would help them understand the approved pesticides/herbicides/fungicides applied at the Golf Course. This website information would discuss how the various chemicals react in different environments

and which ones can be successfully tested for in surface water, sediment, etc. The Commission stated that the peer review person could find this information helpful.

### **Discussion 2-Holliston Wetlands Remediation on Sherborn Line**

The Agent presented to the Commission a proposed project in Holliston for the removal of contaminated soils within a wetland resource that is location in Holliston near the Sherborn line. One contaminant of concern was Lead which was found in sediment and surface water samples from the Vernal Pool. A resident had contacted Mr. Gaskin and stated his concern for the close proximity of the contamination to Dopping Brook, which flows into Sherborn. The Agent asked the Commission if they wanted her to follow up on this and get more information by obtaining the issued Order of Conditions. The Commission asked the Agent to complete a visual inspection of Dopping Brook near the site.

### **Discussion 3 – Certificate of Compliance 310 CMR 10.05 (9) (e)**

The Agent addressed Alex Dowse's question of the legality in having Conditions in Perpetuity included in an Order of Conditions that would then be ongoing and survive past the Order as they would be recorded as part of the Certificate of Compliance. The Agent provided an excerpt from the Massachusetts Wetlands Protection Act Regulations (June 2009) under 310 CMR 10.05 (9) (e) which states, "If the final order contains conditions which continue past the completion of the work, such as maintenance or monitoring, the Certificate of Compliance shall specify which, if any, of such conditions shall continue. The Certificate shall also specify to what portions of the work it applies, if it does not apply to all the work regulated by the Order". The Commission discussed this. It was agreed that the Commission will not discuss this matter further because it is clear the Commission has the authority to place "ongoing conditions" for maintenance or monitoring of post-construction conditions as they may cause alteration of a wetland resource or buffer zone if not enforced past the life of the Order.

### **Approval of the Minutes of March 16, 2011**

The Commission discussed edits to the minutes. Mr. Gaskin moved to approve the minutes as amended. Mr. McClintock seconded and it was voted to approve 7-0.

### **Administrator/Agent's Report**

- **Update on the Stormwater Phosphorus Workshop**
  - The Agent stated that she had attended the workshop and gave a brief synopsis for the Commission.
  - The main points covered were: (1) the need to reduce the use of phosphorus. Phosphorus makes its way into nearby bodies of water through stormwater run-off and is considered a pollutant in surface water bodies and (2) all Town's within the Charles River Watershed will be forced under the new Stormwater Regulations to reduce the amount of phosphorous discharged into the Charles River.
  - Documents from the Workshop can be reviewed at <http://www.crwa.org/projects/EPASRA/muniworkshops.html#workshop2>

- **Update on the Forestry Grant Application**
  - The Grant application was sent to the Department of Conservation and Recreation on March 26, 2011, it was received on March 28, 2011.
  - The Agent is waiting to hear from UCCRL on recommendations for service foresters to contact.
- **Update on the Land Management Meeting**
  - Forest & Trails Association has set up a trail cleanup day for May 14<sup>th</sup>.
  - A free Wild Edible Walk by Russ Cohen is scheduled for the week of June 13<sup>th</sup> – 20<sup>th</sup> and will be approximately 60-90 minutes. Karen Masterson is hosting and will put together a flyer. The walk will be between the days of Monday-Thursday at 3:30 to 5:00pm.
  - The fire trails are scheduled to be cleared, but coordination with the Conservation Commission is necessary before the Town may begin the work.
  - The Eagle Scouts are going to work on Bailey Trail bridge and kiosk.
  - Peter Brockway spoke with a contact at NSTAR, and has a verbal agreement with NSTAR to move portions of the fencing along Whitney Street for public use of Conservation Land.
- **Review of NSTAR counterpoise replacement**
  - In the northwest portion Sherborn, NSTAR has a right-of-way where the counterpoise wire need replacement.
  - Sherborn Conservation Commission was notified and the Agent reviewed the location where work is proposed to take place. She found a Vernal Pool along the right-of-way and notified the NSTAR on March 22, 2011. She requested that NSTAR file a 401 Water Quality Certification with the DEP for the use of swamp mats. The NSTAR representative will note the Vernal Pool along the line and mentioned to the Agent that they will not need to disturb the Vernal Pool. Also, NSTAR mentioned that they are filing a comprehensive 401 Water Quality Certification for multiple sites throughout Massachusetts.
- **ArcView GIS grant for the Conservation Commission**
  - MACMAPP (MA Conservation Mapping Assistance Partnership Program) offers ArcGIS 10.1 for \$400 and 2 years free maintenance. The Agent has spoken with ESRI and the MACMAPP representative who agreed to allow the Sherborn Conservation Commission to apply for the grant for this year. However they have requested the payment for last year's maintenance at a reduced cost of \$200 and for the Arc GIS 10.1 and maintenance for two years at the cost of \$400. The total cost would be \$600; the Town Planner has shown interest in sharing this program with us. The money could come from the consulting fee budget.
  - Mr. Gaskin motioned to approve the expenditure as long as the Town Planner agrees to go in on the purchase, seconded by Mr. Lesser, voted to approve 7-0.

Ms. Tyler requested two items be put on the Agenda for the next meeting regarding signs and deer hunting on Conservation Land and designating an ADA Compliance Trail in Sherborn for emergency access.

The Agent requested that the date of the May 5<sup>th</sup> meeting be moved. A change of date to May 4<sup>th</sup> was approved.

Adjournment: There being no other business to attend to, Mr. Gaskin moved to adjourn at 9:55pm, seconded by Ms. Stiller and it was voted to approve 7-0.

Respectfully submitted,

Debora Anderson  
Minutes Clerk

Documents Presented at the April 7, 2011 Public Meeting

All documents shall be kept in the Conservation Commission Office files

**Discussions**Discussion 1 – Sassamon Trace Golf Course Annual Review

- Proposal to review submittals required by the Ordered of Conditions dated July 15, 1999, by HydroAnalysis, Inc. dated July 21, 2009.
- Proposal to review submittals required by the Ordered of Conditions dated July 15, 1999, by Beals and Thomas, Inc. dated August 5, 2009.
- Proposal to review submittals required by the Ordered of Conditions dated July 15, 1999, by the Horsley Witten Group dated August 7, 2009
- A Copy of a Letter dated April 21, 2010, from the Avalon Consulting Group to the Town of Natick Environmental Compliance Officer regarding review of Water & Sediment Quality Data for the Golf Course.
- A written Monitoring Plan titled “Sassamon Trace Golf Course IPM Monitoring Plan” for the Town of Natick, revised March 7, 2010.
- A List of Possible Pesticides to be used in an IPM Program at the Natick/Sherborn Golf Course, prepared by Dr. William A. Torello, Assoc. Prof., Dept. of Plant & Soil Sciences, UMass, Amherst, dated March 24, 1999.

**Public Hearings****Public Hearing 1 – Amendments to the Town of Sherborn Bylaw Regulations**

- Sherborn Wetlands Regulations adopted December 1994

**Discussions****Discussion 2 – Holliston Wetlands Remediation on Sherborn Line**

- Copy of a Plan titled “Figure 4, Remediation Site Plan, Wetlands at 0 Brook Street”, dated 2/10/11, by Brown and Caldwell.
- NHESP Map showing the wetlands at 0 Brook Street dated 1/19/11.
- Figure 1 – Site Location Map – 0 Brook Street, dated 1/19/11.

**Discussion 3 – Certificate of Compliance 310 CMR 10.05 (9)(e)**

- **Copy of 310 CMR 10.05 (9)(e)**

Cc: Board of Selectmen, Board of Health, Planning Board, Building Dept., Town Clerk, Town Forest, Town Counsel, Sherborn Library, Advisory Committee, D/S Press, Zoning Board of Appeals, Sherborn Garden Club, Forest & Trail Assoc., Assessor, Groundwater Protection Committee, Farm Pond Advisory Committee