



# City of Westfield, Massachusetts

Municipal Conservation Commission

April 14, 2020  
MEETING MINUTES

RECEIVED

MAY 22 2020

WESTFIELD CITY CLERK

Conservation Commission members in attendance: Chairman David Doe, Vice Chairman James Murphy, Thomas Sharp, Carl Grobe, Alex Fagnand, Clifford Laraway and Robert Florek. Also in attendance: Meredith Borenstein, Conservation Coordinator and Colleen Fegan-Nunez, Administrative Assistant.

## 1. CALL TO ORDER

Chairman Doe calls the meeting to order at 6:30 pm. Chairman Doe reads "Pursuant to Governor Baker's March 12, 2020 Emergency Order suspending certain provisions of the open meeting law as well as the additional Order by the Governor limiting the number of persons gathering in one place, this meeting of the City of Westfield Conservation Commission is being conducted solely through remote participation. Please know that persons who wish to listen to the meeting in progress can do so by tuning into Channel 15. If, despite our best efforts, we are unable to provide for real time access, a record of this meeting will be posted on the city's website as soon as possible. He takes attendance. All Commission members are present.

## 2. OPEN PARTICIPATION

There are none at this time.

## 3. ENFORCEMENT

### A. 1223 East Mountain Road-Mark and Chris Dupuis Working without a permit

Coordinator Borenstein states that the site is being planted as of Monday April 20th. She states that GZA reported that some of the plant material approved was not available at the local nursery. She states that some of the trees and shrubs that were available were increased. She states that there were no major changes in plant material. GZA will be on site for the planting so a report will be submitted. She states that a site plan review is also in the works. GZA is still working with NHESP to come into compliance as far as MESA. Coordinator Borenstein states that Mr. Dupuis asked for approval of the following tasks: the remaining stumps could be removed, the mulch pile removed, installation of gates throughout the site, fix the road where necessary and seed the fields that are in the upland with an approved cover crop. NHESP wanted these things done before the Endangered Species in the area became active. She states that because there was no meeting in March she approved this as part of site stabilization to be completed. She states that GZA was present when this

work was completed. She states that with this complete no more work on the site should be done this year, but the Commission should still receive reports. Chairman Doe asks the Coordinator to discuss the gate installation. Coordinator Borenstein states that gates will be installed on the "old logging" roads to prevent people from trespassing. She states that this will prevent motorized vehicles from accessing the property. She states that GZA was present when the work was being done near Barry Brook. Coordinator Borenstein states that the work was done without using heavy equipment and that photos are included in the report from GZA. Commissioner Fagnand asks if the chains are inside the gates. Coordinator Borenstein is unsure but believes they are a replacement for gates in some places. Commissioner Fagnand has safety concerns about chains not being visible enough to individuals on motorized vehicles. He states that he would like to see signs on the chains to make them more visible. Commissioner Fagnand asks if chains are something that the Commission required. Coordinator Borenstein states that it was not necessarily chains but that the Commission wanted to prevent motorized vehicles from crossing Barry Brook. She adds that the chain was the idea of the property owner. Vice Chairman Murphy states that if there was piping strung on the chain it would make the chain more visible. Commissioner Laraway states that he believes that dirt bikes will go around the chains. Commissioner Florek agrees with Vice Chairman Murphy that the pipe makes the chains visible. Coordinator Borenstein states that the land owner asked about access to the beacon tower off of Old Holyoke Road. Chairman Doe states that the Dupuis' need to file an NOI or RDA for any other work in or around any wetlands or rivers on their land or any right-of-ways they are claiming. Coordinator Borenstein states that she has not walked that area. Commissioner Grobe states that he has walked that area and that there are definite resource areas. Coordinator Borenstein states that she will remind the property owner that a delineation must be done before any work can occur. Commissioner Sharp states that the Commission approved the gates and chains but he does not remember doing that. He also states that the Commission gave approval to seed the upland field but he does not remember approving that either. He states that he envisions this property going back to forest. He asks if the Commission will condone the Hemp growing operation on this property. Coordinator Borenstein states that the Commission does not have authority in the upland areas. Commissioner Sharp states that he is concerned about farming in this area because this property does contribute to the water that enters into the wetlands and streams in the area. Coordinator Borenstein states that NHESP approved the updated site stabilization plan. Commissioner Sharp feels that seeding the upland area is counterproductive to the no work on the site order issued to the landowner by the Commission. Commissioner Sharp states that he feels that the Chairman and Coordinator over stepped their bounds by allowing the land owner to do the five tasks for the stabilization of the site without the approval of the rest of the Commission. Chairman Doe states that because there was no meeting and this was part of the Site Stabilization Plan that has been occurring piece by piece. Commissioner Sharp states that he believes that any work should be approved by the whole Commission not just by the Chairman and the Coordinator. Coordinator Borenstein states that NHESP had approved the work and it was out of the jurisdiction of the Commission. She asks how far from resource area does the

Commission wish to assert jurisdiction and legally how far can they assert jurisdiction. She states that she agrees that the whole water shed flows into Barry Brook or the intermittent stream, the Wetland Protection Act states that contributing areas to Buffer Zone jurisdiction can be asserted, but this site has shown no sedimentation into resources. Commissioner Fagnand states that it should be obvious to any onlooker that this is not a quicker and cheaper way to do things. He states that the land owner does have a right to use their property and the Commission shouldn't necessarily inhibit this, as long as the resource area is not harmed. Chairman Doe states that the gates were of minimal impact. Commissioner Sharp would like to be disassociated with the chains across the brook. Clerk Nunez cites the minutes of February 25th where the chain is mentioned. Commissioner Sharp asks if the Commission voted and approved it. Clerk Nunez states that the Commission did not address the chains at all. Coordinator Borenstein states that she will contact GZA stating that the Commission did not approve the chains. She states that the Commission did want Barry Brook blocked. Commissioner Sharp states that he envisioned boulders. Chairman Doe states that the chain was the least invasive to the stream. He states that a pipe and signs would help to make the chain visible. Commissioner Sharp agrees. Vice Chairman Murphy asks about installing guard rails. Commissioner Laraway states that crossing the brook and drilling the holes is damaging to the brook. Commissioner Grobe states that there are breakaway chains to avoid serious injury.

Commissioner Grobe motions to recommend GZA add the safety features to the chains and is second by Commissioner Laraway. CG-Yes, AF-Yes, TS-Yes, RF-Yes, CL-Yes, JM-Yes

Vice Chairman Murphy states that there are many areas on that property that are outside of the jurisdiction of the Commission. He states that in the past, if there is something that occurs outside of Commission jurisdiction that affects the jurisdiction of the Commission, then it becomes Commission jurisdiction. Coordinator Borenstein asks for clarification what can happen in the uplands, besides sedimentation, that would impact resource areas. Commissioner Laraway states that large machinery would impact resource area and no fire trucks can make the crossing. Commissioner Grobe states fertilizer run off. Vice Chairman Murphy states that invasive species should not be planted. Coordinator Borenstein states that the landowner should come before the board before any work occurs, even in the upland because it is so close to important waterways. Commissioner Fagnand states that he wants to ensure that the Commission is not superseding any of the NHESP requirements.

- B. 312 Montgomery Road (48R-75)-Stefan Paladi  
Cutting trees within the 100 foot Buffer Zone (BZ).

Chairman Doe states that the restoration plan calls for 15 White Pines, 15 Red Maples and 7 White Oaks. He states that a site visit is necessary to inspect the erosion controls and silt fence. Coordinator Borenstein states that a site visit was completed to review the delineation. She states that one flag was added but that she was

comfortable with the delineation. Coordinator Borenstein states that the owner wants to return the Buffer Zone to what it was before. She states that she has some concerns because it is a very steep slope down to the resource area. Coordinator Borenstein states that she would like some form of oversight while work is occurring. Chairman Doe asks if there is a consultant involved. Coordinator Borenstein does not believe that there is. Commissioner Laraway states that the land owner is very receptive to working with the Commission. He states that he is unsure that that many trees will do well in that area. Commissioner Sharp states that he feels that a consultant is not necessary. Chairman Doe asks if the land owner is familiar with selecting and planting trees. Commissioner Sharp states that it seems so. Commissioner Laraway states that the landowner did not go that far into the Buffer Zone. Coordinator Borenstein states that before the restoration plan is approved, that oversight should be required. She states that she would be willing to go do some oversight before any plants are installed. Chairman Doe asks if the Commission is comfortable with the Coordinator doing this. Chairman Doe asks if there has been an actual fence put in. Commissioner Laraway asks if the Commission would be willing to allow the Coordinator to make the decision to allow the land owner to move forward without consulting with the Commission. Commissioner Sharp states that the project can wait for two weeks.

Commissioner Grobe motions to allow Coordinator Borenstein to discuss construction sequence, planting sequence and hiring a consultant and is second by Vice Chairman Murphy. CG-Yes, AF-Yes, TS-Yes, RF-Yes, CL-Yes, JM-Yes

Commissioner Sharp motions to table this item until the next meeting and is second by Vice Chairman Murphy. Withdrawn.

#### 4. DISCUSSION

##### A. 116 Fairfield Ave-DEP File #333-733 Partial COC Request

Coordinator Borenstein states that she would like to discuss this at a later date. She states that after a site visit she noticed there is five years of monitoring required. The reason for the Partial COC is so that a Certificate of Occupancy can be issued from the building inspector. Coordinator Borenstein states that the side slopes of the driveway are completely unwegetated so she wants a plan to revegetate the slopes before she allows the partial COC.

Commissioner Grobe motions to table this until proper stabilization plans for the banks has been received and is second by Commissioner Laraway. CG-Yes, AF-Yes, TS-Yes, RF-Yes, CL-Yes, JM-Yes

B. Hampden Ponds Association, SOLitude Lake Management-DEP File #333-661  
COC Request

Chairman Doe states that a new NOI will be filed soon and this is for an open OOC from 2009. Coordinator Borenstein states that this is for Invasive Species management. Chairman Doe asks if there is enough information to issue the COC. Coordinator Borenstein states that it seems as though the OOC has been complied with and that the permit is expired. Vice Chairman Murphy asks if there is a bond being held. Coordinator Borenstein states that she does not see any bond. She asks if Clerk Nunez has a way to see if we have a bond. Clerk Nunez states that she does not but will go to the office to look and email the Commission.

Commissioner Sharp motions to table this to April 28, 2020 at 6:30 PM and is second by Commissioner Grobe. CG-Yes, AF-Yes, TS-Yes, RF-Yes, CL-Yes, JM-Yes

C. 39 Willow Brook Lane  
Emergency Certification  
Failing Septic System

Coordinator Borenstein states that she was approached by a homeowner that has developed a septic site plan within 100 feet of a BVW. She states that normally she would have them file a RDA but because there are no meetings she considers this an emergency. Chairman Doe states that there are a few special conditions, to notify the Coordinator before start of work and installation of erosion controls, install erosion controls at the LOW, loam and seed the disturbed area after installation and leave erosion controls in place until disturbed area is revegetated. Chairman Doe asks if the septic system will be replaced in the same location. Coordinator Borenstein states that it will be. Vice Chairman Murphy asks if it will be subsurface or mound. Coordinator Borenstein states that it is subsurface.

Vice Chairman Murphy motions to ratify the Emergency Certification with the conditions and is second by Commissioner Fagnand. CG-Yes, AF-Yes, TS-Yes, RF-Yes, CL-Yes, JM-Yes

5. OTHER ITEMS

A. Regulations & Procedures Q & A

Motion to make coordinator a signing authority for the commission per registry of deeds: *"We would suggest and recommend that you prepare and execute a vote authorizing the Conservation Administrator to physically sign on behalf of the Commission"*

Commissioner Fagnand motions to temporarily grant the Coordinator the right to physically sign on behalf of the Commission until such time as the Governors'

current executive order regarding Covid-19 is rescinded and is second by Commissioner Sharp. CG-Yes, AF-Yes, TS-Yes, RF-Yes, CL-Yes, JM-Yes

B. Request a laptop of Coordinator

Commissioner Grobe motions to allow NOI fees to be used to purchase a laptop for the Coordinator and is second by Vice Chairman Murphy. CG-Yes, AF-Yes, TS-Yes, RF-Yes, CL-Yes, JM-Yes

C. Minutes of February 11, February 25 and March 10.

Commissioner Grobe motions to accept the minutes of February 11, 2020 and is second by Vice Chairman Murphy. CG-Yes, AF-Yes, TS-Yes, CL-Yes, JM-Yes

Commissioner Fagnand motions to accept the minutes of February 25, 2020 and is second by Commissioner Grobe. CG-Yes, AF-Yes, TS-Yes, CL-Yes, JM-Yes

Commissioner Grobe motions to accept the minutes of March 10, 2020 and is second by Commissioner Fagnand. CG-Yes, AF-Yes, TS-Yes, CL-Yes

D. Earth Day Cancelled

Postponed until September 26th (same day as Source to Sea)

Commissioner Grobe states that he feels doing it on the same date as Source to Sea participation may be limited. Coordinator Borenstein states that she will change it to September 19th.

E. Update on Active Projects

1. Big Y Gas Station

Coordinator Borenstein states that the demolition permit has been approved, demolition is complete and more erosion controls will be installed.

2. Eversource rewiring project underway.

The preconstruction meeting has occurred. They have provided the \$1500 check for plantings around the City.

3. West Parish Filters-Bridges 1 and 2

Coordinator Borenstein states that the erosion controls have been installed. Some minor work has been done in the Riverfront area for preparation.

4. 1090 Southampton Road-Pioneer Valley Pools

Coordinator Borenstein states that the erosion controls have been installed properly. She states that they are prepared to start work.

Coordinator Borenstein states that applications continue to come in. There are three RDAs and three NOIs.

Vice Chairman Murphy asks that Coordinator Borenstein use Screen Share in the next meeting to see any projects. He states that an applicant has asked about Surety Bonds, he reiterates that the Commission only accepts Cash Bonds. Vice Chairman Murphy asks about the flood evacuation plan for Home Depot. Coordinator Borenstein states that she has not heard from them since the beginning of the stay at home order but that she will email them.

6. MOTION TO ADJOURN

Vice Chairman Murphy motions to adjourn the meeting at 8:09 PM and is second by Commissioner Grobe. CG-Yes, AF-Yes, TS-Yes, RF-Yes, CL-Yes, JM-Yes

\*\*\*\*\*

A true record, Attest:  
Colleen Fegan-Nunez  
Westfield Conservation Administrative Assistant

