

**MINUTES – CONSERVATION COMMISSION
TUESDAY, JUNE 17, 2014 7:00 P.M.
TOWN HALL, HEARING ROOM 2, 2ND FLOOR
870 MORaine ST., MARSHFIELD, MA**

Approved 10-21-14 4-0-0

Members present – Robert Conlon (RC), William Levin (WL), Frank Woodfall (FW), Chad Haitsma (CH), Alison Cochrane (AC), Jay Wennemer, Conservation Agent (JW).

MINUTES

BUSINESS

1. Vote & sign Orders of Conditions for closed hearings (if projects are voted closed and/or the Commission is prepared to vote on Conditions)
 - SE42-2507 Global Green LLC, 29 Indiana Street
2. Scheduled Meetings: Tuesday, July 8th, Tuesday July 29
3. Boys & Girls Club CR
4. Evans Land donation offer – Norwich St., 1/8 acre next to ConCom land (G12-02-04)
5. Other volunteer opportunities
6. Chandler Dam Discussion – 7:00 p.m. Present: Bill Earley, Pat Brennan from Amory Engineers, Tom Shields, Patricia van Mierlo, Elizabeth Pineault, Peter Appleby, Betsy Appleby, Steve Pineault, Kerry Richardson, Jeff Morse. RC motion to open the discussion, WL second, passed 5-0-0.

Tom Shields addressed the Commission, read from a letter he prepared covering the following points: Orders of Conditions to better manage water levels within Chandler's Pond and better manage release of water through the pond's dam and spillway were issued in October 2009. Chandler's pond dam was built in 1917, 140' long with a crest width of approximately 25', a hydraulic height of 12' and a structural height of 15'. The dam crest supports a road/driveway to Ron Montgomery's house at 122 Cross Street. Auxiliary spillway is located at Kerry Richardson's property, 115 Pudding Hill Lane.

Mr. Earley was advised by an engineering firm in 2012 that the dam was in poor condition and that maintenance of water levels above the top of the box culvert would put the dam crest at risk of overtopping and failing. Mr. Earley started to gradually draw down the level of water within the pond to reduce this risk and liability by gradually removing flashboards. Mr. Richardson has maintained a number of flashboards within the spillway in an effort to keep the water level within Chandler's Pond as high as possible.

The water management practices by Mr. Earley and Mr. Richardson since June 2013 have caused virtually all water within Chandler's Pond to exit the pond through the dam, almost regardless of how much water enters the pond. Since mid-October 2013, the South River immediately downstream of the dam has been in a state of constant flooding. Mr. Shields said his home and property have been and continue to be deluged with water. He pointed out the environmental impacts and his own property damage and asked that the Commission issue new Orders of Conditions which include a new pond water management plan.

Kerry Richardson stated he preferred not to stand up and read all his notes, and asked that a formal meeting be held and all abutters be notified. He also asked that the Commissioners visit the site. RC stated he did go there today. Mr. Richardson said he has managed the spillway for 15 years; have various agreements with neighbors; and he asks his neighbors to help with spillway when he was away. He said he has a verbal agreement with Veteran's Park so it doesn't get flooded, and thinks this Commission needs more information before making any decisions. RC stated the only way to do anything quickly is through an Enforcement Order and that this is just a general discussion so the Commission could be brought up to date and in response to Mr. Shields' request.

Bill Earley noted the pond history for the Commissioners. It was recommended to him in 2009 that he partner with the Town and State Waterways Program and the North & South Rivers Watershed Assoc., to monitor what's going on. In 2012 Mr. Earley offered to all abutters that they could take over dam ownership for a dollar. No one was willing to take on the high degree of liability on the 97-year old structure. The dam has been overtopped when the Duxbury cranberry people released the water in the fall. This was not a predictable event. The other time it overtopped was when the town of Duxbury broke up some beaver dams, the surge of water came down, and we weren't notified. Mr. Earley stated he has had two engineering studies done on the dam – one by Stantec Consulting Services, Topsham, Maine, and one from Pat Brennan of Amory Engineers, Duxbury, MA. Bill found that there was a large piece of plywood blocking the dam. If that dam fails with all that water, the liability is Mr. Earley's alone. Nobody wanted to buy the dam; Mr. Earley has been following what the Town, State and N&SRW Association have suggested.

Pat Brennan stated he did a hydrologic and hydraulic analysis on the dam. Modeled it based on 3 different elevations: 25.3 NAVD 88 is the historic natural level of the dam, about a foot lower than that last March. With the boards at the historic level, 2" rainfall would cause water to overtop without releasing some through the spillway. To the right of the sluice way is a low point that goes over to the Richardson & Earley land. If level maintained March elevation 24' at that level, a 4" rainfall would overtop. Mr. Brennan's recommendation is to maintain at the lowest level possible. Shields' property would see more flow if maintained at the lowest level.

Duxbury has agreed to let Mr. Earley know when they plan to remove any beaver dams or cause a large release of water. Have not attempted to talk to the Cranberry bog owners. Mr. Richardson – when the stream can't function, that's when we get into trouble. RC – that would put more pressure on the dam.

Jeff Morse, 181 Pudding Hill Lane, stated one of the biggest problems here is the condition of the river from Cross Street down to Veteran's Park. It is totally choked off with shrubs, brush and junk that's fallen in. When the Town bought the Menzi Muck, DPW said that this part of the South River was one of the first projects they would use it for. They never did the work. The stream is getting more and more clogged. Isn't it the Town's responsibility to take care of the stream? The Commission agreed it would be the DPW's responsibility. Mr. Earley agrees with Mr. Morse. VFW water control boards at Veteran's Park also back up the stream to contribute to flooding at Shield's.

Peter Appleby, 258 Pudding Hill Lane, stated he has lived there 45 years. Big issue is that the pond has two exits – needs both to handle all the water in winter. Just change

one or two boards, leave it for the whole winter. Most of the water in winter goes out via the spillway which has 4 or 5 times the capacity of the dam. Huge old culvert under Old Ocean Street – two culverts, one small one on the dip, and one on Cross Street, after the Shield's house. Those culverts must be getting overworked and all the water is currently going over the dam. Should take the dam out – no way you can have all that water going one way; must be able to use the spillway for release.

Mr. Richardson – took all the boards out of sluiceway 3 and 4 to prepare for the winter. Didn't want Shield's house to get flooded, will take the boards out if the pond rises. Spillway is integral part of the system.

Mr. Earley said two boards were put in his dam in December as requested by Mr. Shields.

Elizabeth Pineault, 282 Pudding Hill Lane, said in the summertime the upper end of the pond dries up and creates mud flats. Huge part of the bank shows – if the pond level is kept up at our end that must mean the boards are in. It is a dangerous situation – children, mosquitoes, snakes.

Patricia van Mierlo, 60 Cross Street, said wells have gone dry there; what if there's a fire?

Steve Pineault, 282 Pudding Hill Lane, stated he was concerned with the salt water intrusion, recharge area and use of the aquifer.

RC pointed out this is a general discussion tonight. Mr. Earley is in compliance with the Orders of Conditions. Ms. Van Mierlo asked what the possibility is of getting the Menzi Muck in to get that stretch between Cross Street and 139 cleaned out. Question for DPW RC said. Mr. Richardson said Rod Procaccino, Town Engineer, has no opinion right now about what the impact would be on the aquifer. Selectmen McDonough had asked about the impact of the pond on Town properties.

Mrs. Appleby asked what time frame the Commission sees in helping them resolve some of these issues. WL stated the Commission needs an agreed-upon solution as to the consequences. Everyone has a stake in this. Pat Brennan – if you want to restore fish passage – dam goes away. Mr. Morse said he'd take the elevations – has the equipment.

JW – two ways it can be done – can issue EO to the Town to clean out the channel, or the Town can fill out a NOI for a permit to do that. Should have public hearing, Commissioners can consider it. Problem is it's very low on DPW's priority list.

RC thanked the residents for their comments.

ENFORCEMENT ORDERS

REQUESTS FOR CERTIFICATES OF COMPLIANCE

Backburner:

1. 1658 Heaney, 29 Farragut Road
2. 2324 Wallace, 110 Damon's Point Road

3. 1090 Peterson, 219 Ridge Road
4. 1827 L. L. Smith, 60 Macomber's Ridge
5. REQPC-1925, Cushing Construction (Parsonage St.) Garden Gate
6. 2381 NSTAR, Pine Street
7. SE42-2486 Gray, 7 Tupelo Road
8. SE42-1874 Tedeschi, 113 Smoke Hill Ridge

Current:

1. SE42-2480 Mitchell, 436 Moraine Street
2. SE42-2363 Hannah Brook LLC, Off Summer Street

REQUESTS FOR DEVIATION

REQUESTS FOR EXTENSION

NEW BUSINESS

This time is reserved for topics that the chair did not reasonably anticipate would be discussed.

PUBLIC HEARINGS

7:30 2508 Farrell, 355 Church Street - RC read notice of public hearing. Brian Taylor, Mr. Farrell present. Taxes paid, abutters notified. Existing single family house. Brook Monroe did wetland line. Septic will be replaced. Proposing a new 4-bedroom house in the same footprint as the existing. Slopes down from street and has walkout back basement. Plan minimizes the grade changes. Staked silt sock proposed for erosion control. CH was on site today and asked about stormwater runoff. Mr. Taylor said they will try to minimize contours. Will loam and seed to stabilize. CH asked, as you face the garage, off to the left, there is a drainage area – lot of debris in there needs to be removed. FW asked if there will be a catch basin in front of the garage. Swale to the side of the drive, Mr. Taylor said. Gutters are proposed – FW asked that they be put into drywells or infiltration trenches. Mr. Taylor asked if rain barrels would be acceptable if they overflow into drywells. JW – some runoff from Church Street making it down the driveway – would like to see a broad berm at the edge of street pavement on the driveway. BT said he's going to ask DPW to look into that. JW would like it to be shown on the plan and a required part of the construction project. Next door neighbor present to ask location of house, footprint, etc. JW pointed out the new house does extend out to limit of the existing deck to the north. Mr. Taylor asked that the hearing be closed. JW – concerned if we close, we don't have a plan to refer to in the Orders. JW recommends continuing, will have draft orders ready at next meeting for consideration. CH motion to continue to 7/8 at 7:15, RC second, motion passed 5-0-0.

8:00 2475 Adelaide R.T., 108 Webster St. - Brian Taylor present. Bob Gray, the Commission's consultant from Sabatia, present. RC noted that the taxes aren't paid – cannot close meeting tonight.

FW made a Point of Order, that he was contacted by the Marshfield Police Department's Detective Davis, who questioned Frank about this project- specifically how the decision to require re-notice of abutters and legal ad in the paper was made and whether this decision was done in a public meeting. The Chair accepts the Point of Order and ruled well-taken and will be noted in the Minutes of the meeting.

Mr. Gray reviewed the proposal with the Commission to refresh their memories since a lot of time had passed since the last meeting. The Plan of record originally filed with the NOI in July 2013 is not the plan of record that is before the Commission right now. The project has gone from an 18-lot subdivision to a 15-lot subdivision with major changes to road layout. The lots in question are not the same lots that are referenced now on the plan.

The only NOI that Mr. Gray has been given to review is the July 2013 NOI, which poses a problem because the July NOI contains references to impacts to wetland resource areas, which we don't know whether those impacts are the same under the new plan that is before the Commission at this time. It's important to go back to the original NOI because the project description at that time was roadway construction, utilities and appurtenant drainage structures within a Buffer Zone to a BVW, within the Riparian Zone to a perennial stream and within a Riverfront area. There is nothing in the general description that describes the proposed lots. The new plan shows lots. NOI needs to be updated. Probably incorrect based on the new plan. This project is not in compliance with several issues. Particularly concerned about proposed construction – Commission needs alternatives analysis, which is a basic requirement because of the Riverfront area. Lots 1 and 2 definitely at this time do not meet the Performance Standards for work in the Riverfront. Also, lot 13 in the back of the site, poses problems.

Mr. Gray suggested the applicant's representative update the NOI, provide a lot-by-lot breakdown of how much of each lot is in the Riverfront and how much of that lot is proposed for development. He also has some concern with drainage constructions within BVW and one of the driveways. One plan shows a common drive to lots 13 & 14 and another plan shows two driveways. Driveway is actually within the 75-foot no- structure buffer zone, and driveways are considered to be a structure. Mr. Gray asked Mr. Taylor if he had received a copy of his May, 2014 letter; Mr. Taylor confirmed that he had. According to Mr. Taylor, Natural Heritage is satisfied with the project design and potential impacts to rare species. Is there any reason why the NHESP hasn't replied with a written report?

Mr. Gray asked if Mr. Taylor would be able to get the revised materials to the Commission and to him soon to allow sufficient time to review, at least a week or so before the scheduled hearing. JW requested clearly calculated report and show all of the impacts for the entire project to the Riverfront area. The alternatives analysis is required and the project will not proceed without this.

Francis Dooley, 45 Jefferson Ave. asked how would the Commission move ahead without a response by NHESP? RC said we won't; just asking if it's realistic to have the meeting on July 8th.

Mr. Gray stated MA Natural Heritage likes the Commissions to wait for their input. However, a lot of Commissions don't like to constantly continue, so many Commissions build a boiler plate condition that references any specific conditions relative to MNHESP and it automatically becomes part of the Orders.

RC motion to continue to July 8 at 7:35, FW second, passed 5-0-0.

The Commissioners read draft orders for Global Green. One change from FW. RC motion to accept as amended, WL second, passed 5-0-0.

RC motion to adjourn at 9:00 p.m., CH second, passed 5-0-0.

Respectfully submitted,
Lois Keenlside
Marshfield Conservation Commission
Jay Wennemer, Conservation Agent

Robert Conlon
William Levin
Frank Woodfall
Chad Haitsma
Alison Cochrane