

**MINUTES – CONSERVATION COMMISSION
TUESDAY, April 5, 2016 7:00 p.m.
TOWN HALL, HEARING ROOM 2, 2ND FLOOR
870 MORaine ST., MARSHFIELD, MA**

Approved 7-12-16 4-0-0

Members present: Robert Conlon, Chairman (RC), Frank Woodfall (FW), Chad Haitisma (CH), Bert O'Donnell (BO'D), James Kilcoyne (JK) and Jay Wennemer, Conservation Agent (JW).

RC motioned to open the meeting at 7:00, FW second, motion passed 5-0-0.

**MINUTES
BUSINESS**

Vote & sign Orders of Conditions for closed hearings (if projects are voted closed and/or the Commission is prepared to vote on Conditions) RC motioned to accept SE42-2604, Harbormaster draft as written, CH second, passed 5-0-0.

- Discussion – SE42-2563 LoConte, 16 E Street – 7:00 p.m. – did not take place.
- Scheduled Meetings: April 26th at **Marshfield High School 6:00 p.m.**
- Land donation offers: G12-01-07, Norwich St. & H16-06-03, Ferry Hill Road.
RC sees no benefit to Conservation in accepting the H16-06-03 Ferry Hill Road property since it is landlocked, and motioned not to accept. FW second, motion passed 5-0-0.
RC recommends accepting G12-01-07 Norwich Road, and motioned to accept, FW second, passed 5-0-0.
- CR for Jose Carreiro Woods from TTOR – draft CR – JW said Town Counsel is okay with it.
- Letter from Jason Zimmer, District Supervisor at Division of Fisheries & Wildlife, offering to buy a CR from the Town for 1,000 acres on Carolina Hill, Furnace Brook Watershed Area (Harrington's Wilderness).

EXECUTIVE SESSION

Town Counsel Galvin was present. RC motioned to go into Executive Session to discuss pending litigation issues and land acquisition; Open Session discussion would be detrimental to the Town, and to return to Open Session. FW second. Roll call vote:

- RC – yes
- FW – yes
- CH – yes
- BO'D – yes
- JK – yes

Motion passed 5-0-0.

The Commission returned to Open Session at 7:45 p.m.

ENFORCEMENT ORDERS

148 Foster Avenue – substantial improvement without having gotten Orders of Conditions. JW showed photos. The Building Permit that was applied for was for a deck, but the entire house has had extensive work done.

REQUESTS FOR CERTIFICATES OF COMPLIANCE

Backburner: (until problems are resolved)

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. 1318 Darman, Chestnut Hill Trust, Holly Road
8. 2546 Hutchinson, 499 Union Street

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Current:

1. SE42-1472 Haddigan, 37C Falcon Close – JW recommends. RC motion to issue Certificate, FW second, motion passed 5-0-0. Commissioner's signed.

REQUESTS FOR DEVIATION
REQUESTS FOR EXTENSION
NEW BUSINESS

PUBLIC HEARINGS

7:10 RDA 16-02 Open Space Committee - RC read notice of public hearing. BO'D hearing officer. JW presented the project. Town purchased Pratt property at the corner of Willow and South River Street for open space and habitat protection. Have planned to put trails through it – some are partially constructed; couple of crude bridges.

The property goes all the way over to the South River. There's been a plan for a kayak launch. This RDA is to find out if building a float and ramp and a concrete pad or bench on the bank of the river would require filling a NOI, or if the work can be done under an RDA with conditions. JW spoke to Dave Hill, DEP – he said based on the description he does not think we need a Chapter 91; would take over a year. He did say the local Harbormaster could give us a 10-A permit for a float such as this. The ramp will be bolted to the steel beams under the bridge and the ramp will be bolted to the float – no pilings, no anchors, no disturbance. Would be reasonable to restrict use to non-motor vessels. No impact to wetland resources. JW's recommendation is for a Negative # 3 on the RDA.

The 6 x 10 concrete pad will be on the railroad bed near the abutment. BO'D said it's within buffer but won't impact the wetlands; the bench will be alongside the bridge. JW felt it is not going to have any adverse impact. CH asked if the water level is mostly tide driven; JW said it is. FW asked if the floats would come out in the winter; JW said they would; they should be hauled out by crane or towed to a boat launch ramp. BO'D asked if they will keep motor boats out of it; JW said yes. RC asked if there was any chance of setting a precedent; JW said no more than any other RDA. FW asked if there would be a catwalk. JW said there will not. No comments from the audience. RC motioned to issue a Negative Determination #3, FW second, motion passed 5-0-0.

7:15 26__ Howard, 18 9th Road - Hearing will be held 4/26/16 @ 6 p.m.

7:15 2605 MA DCR, Magoun/Oakman/Hatch/Mounce Ponds - RC read notice of public hearing. Alex Patterson, ESS Group, on behalf of MA DCR, was present. They examined four ponds in Marshfield which were thought to have the potential of an aquatic invasive plant known as Hydrilla. Magoun and Oakman ponds are entirely filled with Hydrilla, and Mounce pond is partially filled. NOI is to implement management plan to control this species – primary means are through the use of an aquatic herbicide known as Sonar, as well as hand and diver removal. For the first year work would be conducted at Magoun and Oakman ponds.

CH asked who is supposed to be managing this site; Mr. Patterson said DCR has a budget to manage this even though they don't own the ponds. They wanted to manage it because this species is quite limited in its geographic area, possible it can be eradicated. RC asked how the management is working on the other sites. Mr. Patterson said once it reaches that point the only cost effective way to control it is through herbicides.

FW asked if there will be one application this year, or multiple. Mr. Patterson said one application initially. Herbicide would be applied to the pond and the person applying the Sonar on the area would determine the effectiveness within the next few weeks – the product works slowly. FW asked if the application will affect other plants in the pond. Mr. Patterson said it does – in the two ponds they're proposing to treat the first year, plant mapping showed Hydrilla is by far the most abundant plant. FW asked about reptile and fish populations. Sonar is the safest herbicide for aquatic use Mr. Patterson said, concentrated 150 parts per billion. Typically the concentrations are in the range of 20-50 parts per billion.

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Magoun and Oakman are the two largest of the four ponds. Plant mapping last fall showed both are pretty much covered by Hydrilla. They feed the other two water bodies that are downstream; it wouldn't be possible to control Mounce pond without controlling the streams upstream.

JW asked if there is any opportunity to drain a pond down to kill the Hydrilla. Mr. Patterson said the pond has to have an outlet control structure; contours would need to expose enough of the shoreline. Depends a lot upon the weather – happens typically during the winter. JW – drying it out is not good enough? Mr. Patterson said that won't really get you anywhere. Typically drawdowns are done in the winter – simply drying them out doesn't kill Hydrilla.

JW noted this string of ponds empty out into the North River and asked Mr. Patterson if he has any concern with using Sonar in salt water. Mr. Patterson said he doesn't think there's any distinction. Photo degrades. RC asked what the detriment is if you don't do anything. Mr. Patterson said the general idea is because they didn't evolve here and the plants and animals and insects are adept at living with these plants. Degrades habitat.

BO'D asked how the product is applied. Mr. Patterson said applicators would go out on one day in late spring and apply the herbicide over the day and go back during the season to check – could do a booster treatment to reach the ideal level. No restrictions on the water – ponds would be closed only while the applicators are out there.

Dan Wentworth, 415 Union Street, asked if they have to do the booster treatments at the other ponds that were treated. Mr. Patterson said it's hard to predict – based on environmental weather conditions. Following initial treatment there may be one or two booster treatments within the same season.

RC asked if they would be notifying the neighbors about the booster treatment. Mr. Patterson said the following application would not use the same concentration. They would close the pond for the day and treatment would take about an hour or two.

Ann Carol said the road goes over the pond and drains down to Oakman, which has a strong current. Once treated won't it just flow down to the other ponds? Looking to treat both Magoun and Oakman ponds Mr. Patterson said, but most of the pond is relatively little flow. Ms. Carol stated her concern about a water system and the possible affects on the drinking water. Mr. Patterson said Sonar, in terms of impacts, is the most benign and is approved for use in drinking water reservoirs. RC asked if it's approved for reservoirs in the same concentration; Mr. Patterson said in a lesser concentration.

CH asked how long has Sonar been around; Mr. Patterson said about a decade or so, and is approved by ADA.

Dave Gavaza, 475 Union Street, asked if there are any restrictions or limits on the pond for access in the Orders of Conditions. Mr. Patterson said treatment would be done from a small John boat – access would be something the applicator would need to come to an agreement on with the property owner.

JW asked if this is the plant that you see signs about at boat ramps. Mr. Patterson said both Hydrilla and milfoil.

Barry Cornwall, Hatch Mill Board of Directors, stated there is not much of a pond left at Hatch, and asked if Sonar has any impact on phragmites; Mr. Patterson said, unfortunately, it does not.

Dan Wentworth asked what other herbicides would control phragmites. Mr. Patterson said Rodeo would work by cutting the stems in the fall and applying herbicide to the cut stems.

BO'D asked how close Magoun Pond is to the wells. JW wasn't sure. Ms. Carol said it's pretty close. BO'D thought it would be a good idea to let DPW know Mr. Patterson said the only other license would be from DEP to apply the herbicide. RC said we'll probably make that a condition on the Orders. Barry Cornwall suggested including a condition requiring abutters be informed a week or so before. RC motion to close and issue Orders, FW second, motion passed 5-0-0.

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7:15 2607 Pomerantz, 56 Bartlett's Island Way - RC read notice of meeting. CH hearing officer. Bob Crawford, E.E.T. presented. Mr. & Mrs. Pomerantz present. Lot is an acre and a half. 1500 sq. ft. deck supported by 28 concrete piers. Proposed deck is same location as existing deck with some slight modifications. Proposed erosion control barrier, flood plain contour elevation 9 AE zone. Closest construction is 2' to the edge of the marsh. JW said he had a hard time interpreting the plan but that it made sense on site. CH asked JW if concrete pilings okay; JW said they were. JW asked what the elevation of the top of the deck is – Mr. Crawford said about the same as the walkway, 9.6. JW asked because we don't like to permit anything that's below 11, but since this is replacing original deck we could put a condition on that it cannot be enclosed. CH asked how deep the pilings are – about 3' Mr. Crawford said. CH motion to close, FW second, passed 5-0-0.

7:20 2606 Harvey, 37 Acorn Street - RC read hearing notice. CH hearing officer. Bob Crawford, EET, presented. Upgrade of existing system. Failed Title 5 inspection. Proposing to replace with 1500 gallon septic tank. Construction within 100' buffer zone. JW was on site and has some issues with the wetland delineation. Skunk cabbage outside of the area that was flagged by South River Environmental. JW approximated where the flags should be moved to, but would like to meet John Zimmer from South River Environmental out there and re-flag.

JW said the Commission needs to look at this again, there's a difference of 50' and asked Mr. Crawford if this is the only location the system could be located. Mr. Crawford said it is, there is a lot of ledge on the property. Looked at west side of property and there's outcrops over most of the lot. Two existing cess pools. Both dwellings are on the same property. JW asked if there are any plans to upgrade the other system; Mr. Crawford said only if need be. JW asked if the intent is to subdivide. Diana Harvey was present and said there is no plan to subdivide. JW said if the wetland ends up where he thinks it will be, it may preclude the septic system. He is wondering about the area to the west and would suggest a common system for both houses. Mr. Crawford said the other side of Moraine Street is also wetland. Have applied for a variance on the water table he said; can get up to a 25% reduction with a variance.

Robert Womack, 51 Acorn Street asked how far away the system is; Mr. Crawford said 7'. Mr. Womack asked if Mr. Crawford can assure him there'll be no compromise of his septic system. Mr. Crawford said Title 5 requires a minimum of 10', and he will check on that. Mr. Womack wants to be sure the system is 10' away. CH motion to continue 4/26 at 6 p.m. at the Marshfield High School, FW second, motion passed 5-0-0.

7:20 2603 Hart, 102 Preston Terrace - Mr. & Mrs. Hart, Darren Grady of Grady Consulting, and Mr. & Mrs. Phinney present. FW hearing officer. Proposing a rip rap wall; during the last meeting Mr. & Mrs. Hart were asked to check with DPW to see if they have any objections to this project. DPW sent an email stating they had no objection. Mr. & Mrs. Phinney had agreed upon a spot where they want this rip rap constructed to give them access to the beach. We have been asked tonight to shorten the wall by 7' and modify the plan. FW – 7' east of where it is shown will be modification. FW motion to close, RC second, passed 5-0-0.

7:25 2570 Ryan, 241 Foster Avenue - Applicant requested a continuance to May 10th. RC motioned to continue to May 10th at 7:15, FW second, motion passed 5-0-0.

7:25 2591 McGillicuddy, 64 Foster Avenue - Dick Rockwood, Rockwood Design, present. Mr. Rockwood stated Jerry O'Neill, the Building Inspector, said this project is a substantial improvement. Have cut that back some. Still back and forth about the Regulations. Rockwood has requested that Mr. O'Neill state his issues in writing with this project. As of this evening, Mr. Rockwood hasn't received that letter. RC motioned to continue to 5/10 at 7:20, FW second, passed 5-0-0.

7:25 25__ Mahaney, 46 Preston Terrace - Mr. Mahaney, abutter John O'Leary and his Attorney Jay Creed, were present. Mr. Mahaney brought in a new plan two weeks ago – addressed some of the issues about changing contours and grading so water doesn't flow onto neighbor's site. The plan also shows a crushed stone trench so water will channel down in the trench, rip rap dissipater. FW asked if Mr. Mahaney is adding drainage down below, the area is all silted in, and asked over the course of time, what shape is that gravel trench in. Mr. Mahaney said it is eroded and he is proposing larger stone. FW asked if Mr. Mahaney could relay that portion down to the low area; Mr. Mahaney asked if he needs larger cobble; FW suggested inch and a half max.

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JW stated up near Preston Terrace the water is flowing off the pavement at a good clip, moving some of the crushed stone around. FW suggested the size be increased to 3 or 4 inch stone. He asked Mr. Mahaney if the stone wall is only a foot or two high; Mr. Mahaney said there is no wall – just larger stone to prevent erosion. Atty. Creed asked if there's a maintenance plan; FW said there is not, he's never heard of one on a French drain. Mr. Creed said this drain is being proposed within the roadway and it doesn't comply with general law – private ways. Mr. Creed read from general law and stated Mr. Mahaney is taking advantage of the private way by proposing to use the center line and altering it. How does it comply? It does not, it obstructs; doesn't say anything about draining. Atty. Creed said Mr. Mahaney needs to solve this within the confines of his lot.

JW said it appears to him that the end of the crushed stone was at the center line of the road. He asked if there is a distinction between deeded rights and to the center line of the road. Jay Creed said Mr. Mahaney and Mr. O'Leary have rights to the center line. Only other rights would be, Preston Terrace residents have the rights to pass over that roadway – that's what's meant by deeded rights.

FW asked if Mr. O'Leary's water pitches toward the road; JW said the general pitch is down from the north to the south. BO'D asked, from a conservation standpoint, if this solves the problem. FW said this slows it down. JW – not much of a storm water treatment system, but supposed to prevent erosion. Only other – draining filtration system. BO'D suggested a legal opinion on the rest of this – out of our scope. FW noted this plan is different than what we talked about at the last meeting. Jay Creed said when this case was litigated, Mr. Mahaney's counsel was the current Town Counsel. FW asked why Mr. Mahaney doesn't want to put the trench on his property; Mr. Mahaney said it is on his property; there should be a drain on the street. Atty. Creed stated an Enforcement Order started this whole ordeal; Mr. Mahaney raised the grade of his land – it's not because of anyone else.

FW noted the water is not shedding toward Mr. Mahaney's property, it's shedding toward the O'Leary property. Mr. Mahaney asked if he should just eliminate the trenches altogether. JW asked how he would handle the flow so it wouldn't erode? Crushed stone from the center line of the road back toward Mr. M's property would solve everything from the center line of the road – positive slope towards Mr. Mahaney's property. Not a dirt road, all grass. FW – each has their own water problems. JW – more like a rip rap flow dissipater. FW won't accept current plan because it still shows flow toward Mr. O'Leary's property. Elevate 2 to 3 feet from the center line of the road – shed toward Mr. Mahaney's property. FW stated from Mr. Mahaney's property on paper road to Mr. O'Leary's property, Preston Terrace is sloping toward Mr. O'Leary, which is a pretty flat lot. Going to have to pitch it toward Mr. Mahaney's property line. Swale – from center line down toward Mr. M's property, diverting water from Mr. O'Leary's property. JW asked if, from the center line of Peabody Road, Mr. Mahaney's swale would be slope down to the north? Mr. Mahaney said it would. High point would be the center line? Low point would be half of 17'.

Atty. Creed said, at some point, it's going to temporarily hold water. How much of it will be in the ROW? JW said ponding won't happen; there'll be a pitch to the north and east.

FW said a swale is a means of moving water down the road. It's not a structure. There has to be a swale. Mr. Mahaney needs to bring in a new plan with a swale, no water shedding across the road. JW concerned where swale ends down by the top of the bank – going to have erosion – need plantings. Concerned about what happens in the interim. Erosion/silt socks – not hay bales. Mr. O'Leary stated he never had a problem with erosion in that area.

FW motion to continue for receipt of a new plan, which should also be sent to DEP so a file number can be issued, to May 10th at 7:30, RC second, passed 5-0-0.

7:30 2608 Dickinson, 938 Summer Street - RC read notice of public hearing. FW hearing officer. Carmen Hudson, Cavanaro Consulting, Mr. Dickinson and the architect present. Mr. Dickinson bought the property in 2014 and has done a lot of renovated on the home. Received a site plan from the previous owner, and a landscape plan was developed. In the fall 2015 they met with JW on site to discuss landscape design and were told there was another wetland not shown on the plan. Pipe that goes under the driveway. John Zimmer, South River Environmental, delineated the wetlands in October 2015. With new wetland in the west, proposed driveway would go through the wetland. Discussed with JW. Decided it would be best to avoid all wetland crossing.

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Everything is pretty much lawn. Proposing to keep the driveway in the same location, saw cut it, and right at the pipe under the driveway, then turning the drive to the west. Driveway further away from eastern BVW and closer to western BVW by 9'. There would be a net decrease of impervious area of about 800 sq. ft. Neighbor to the west submitted an email of support.

The architect said there is 11 acres; he plans to enhance the landscape area – substantial amount of new plantings, fruit trees will be transplanted and added to. Also planning to create an enhanced meadow with mowed paths – meadow grass. Proposing to re-build stone wall to the left of the driveway as you approach the house. “Holistic approach” to the property.

CH asked what the existing driveway is made of; Mr. Dickinson said asphalt. CH asked JW if this was an issue; JW said basically just changing the existing driveway more toward the west. FW motion to close, RC second, passed 5-0-0.

RC motioned to adjourn at 10:30 p.m., FW second, motion passed 5-0-0.

Respectfully submitted,
Lois Keenlside
Marshfield Conservation Commission

Jay Wennemer, Conservation Agent
Robert Conlon, Chairman
Frank Woodfall
Chad Haitsma
Bert O'Donnell
James Kilcoyne