

Pembroke Conservation Commission

Minutes of the Meeting of

July 27, 2015

Disclosure: These minutes are not verbatim – they are the administrative agent's interpretation of what took place at the meeting.
All materials presented during this meeting are available in the Conservation Office.

Open Meeting Law, G.L. c. 30A § 22.

Agenda – May include topics not reasonably anticipated by the Chair at time of posting of the meeting.
Open Meeting Law, G.L. c. 30A § 20.

Attending: Al Gigliotti, acting chairperson; Robert Clarke; Carey Day; and Michael Kirby
Absent: Scott Glaubien
Staff: Bob Clarke, agent; and Mary Guiney, administrative agent
Location: Town Hall, Veteran's Hall
Opened: 7:35 p.m.

Art Egerton assembles a camera and microphone for a recording of the meeting. After inquiry, he states that it is for personal use.

(Acting Chairperson Al Gigliotti reads the prepared script that advises that “the meeting is being made available to the public through a live video and audio broadcast on Comcast Government Access Channel 15 – even though it is not - and is also being recorded for airing on the channel at future dates – even though it is not. Comments made in open session will be recorded.”)

Acting Chairperson Al Gigliotti states that the Route 14 Reconstruction hearing scheduled for 7:30 p.m. will be postponed so as to open and continue the three Valley Street hearings. He suggests the commission consider other business on the agenda first.

Discussion: High School Drainage Basin

Agent Bob Clarke reports that it appears that the project may not be as costly as originally projected – although it will still be costly. Design work is progressing. The DPW will be requesting funds for repair of the system at the fall town meeting.

Discussion: Request for Counsel

The commission requests an update on their prior vote to hire private counsel. The request has not been submitted to the selectboard. The commission would like it sent as soon as possible.

Documents Signed

Agent Payroll
WB Mason Bill

Objection for Record: Selectboard Member Bill Boulter

Selectboard member Bill Boulter requests permission to address the chair. He wants to make an official complaint regarding the presence of Carey Day at the conservation commission table. He reminds the commission that Mr. Day was removed from the commission effective July 1, 2015. Mr. Boulter strongly states that Mr. Day should not be at the table; and that Mr. Day cannot represent the conservation commission in any capacity. He states several times that the Selectboard removed Mr. Day from the conservation commission effective July 1, 2015. Mr. Boulter was informed that Mr. Day can remain in office until a successor is sworn in. Mr. Boulter reiterates that Mr. Day's removal was effective on July

1st and he has no authority to act as a commission member. Mr. Boulter further demands to know the legal vehicle by which Mr. Day continues as part of the commission. Mr. Boulter is reminded that the conservation commission does not have access to legal counsel to answer these questions, but is relying on guidelines published by the Massachusetts Association of Conservation Commissions.

Mr. Boulter states he wants his objection noted for the record.

Cont. NOI – 234 Valley Street, lot 26 – Delprete (DEP file no.: SE56-948)

The hearing is opened at 7:40 p.m.

The applicant has requested a continuance until August 10, 2015.

Motion to continue until August 10, 2015 at 7:40 p.m.: Michael Kirby

Second: Bob Clarke

Vote: 3-0-1 (for-against-abstain. Carey Day abstains from the vote)

Cont. NOI – 242 Valley Street, lot 27 – Delprete (DEP file no.: SE56-949)

The hearing is opened at 7:41 p.m.

The applicant has requested a continuance until August 10, 2015.

Motion to continue until August 10, 2015 at 7:40 p.m.: Michael Kirby

Second: Bob Clarke

Vote: 3-0-1 (for-against-abstain. Carey Day abstains from the vote)

Cont. NOI – 256 Valley Street, lot 29 – Brainfrank (DEP file no.: SE56-950)

The hearing is opened at 7:42 p.m.

The applicant has requested a continuance until August 10, 2015.

Motion to continue until August 10, 2015 at 7:40 p.m.: Michael Kirby

Second: Bob Clarke

Vote: 3-0-1 (for-against-abstain. Carey Day abstains from the vote)

NOI – Route 14 Reconstruction Project – Fulmine (DEP file number: SE56-955)

The hearing is opened at 7:43 p.m.

Attending: John Morgan, P.E., CHA
Jay Hall, P.W.S, CHA
Eugene Fulmine, Jr., applicant and DPW Director
Barbara Thissell, P.E., peer review engineer
Arthur Boyle, selectboard chair
Dan Trabucco, selectboard
Michelle Burt, selectboard
Lew Stone, selectboard
Williard J. Boulter, Jr., selectboard
Ed Thorne, Town Administrator
Sabrina Chillcott, Executive Assistant to the Selectboard
Richard Wall, Pembroke Police Chief
Richard Madden, 193 Mattakeesett Street
Art Egerton, 413 Center Street
Andrew Stevenson, 145 Indian Trail
Dan and Carolyn Cleary Sullivan, 260 Valley Street

Revised plans were submitted to the conservation commission on July 23, 2015. Acting chairperson Al Gigliotti requests that CHA provide a review of the revised plans. Mr. John Morgan, P.E., states that he revised the plans based on notes from colleague Rob Cahoon.

- He has added drainage information to permitting plans such as rim and invert elevations and notes.
- He has eliminated approximately one-half of the leaching basins. Eleven (11) leaching basins will remain and, if maintained, will improve cleansing and recharge benefits.
- He has added and extended the rip rap at the discharge points.
- They have found an alternate location within the roadway layout for a smaller sediment tank as the existing pipe at Furnace Lane is approximately 10 feet deep. It appears that the invert at the Furnace Lane location will be approximately 20 feet deep and the shafts will be too deep for the DPW to clean. Peer review engineer Barbara Thissell points out that it should be possible as the pipe approaches ground surface at the outlet. The commission discussed the practicality of the drainage easement. Agent Bob Clarke states that by moving the tank back, it will leave ½ of the water untreated and the commission is trying to keep untreated water from entering Furnace Pond and the commission wants to protect sensitive areas. Mr. Morgan indicates that treating ½ of the water is better than no treatment. DPW Director Eugene Fulmine says that if the water goes into the easement it will be within 10 feet of Furnace Pond. Mr. Clarke points out that the Town is buying an inferior product as the project is running out of time. The ensuing discussion involved the capacity of the tank (to protect against an oil tank spill), access issues, installation of a second tank, installation of rip rap on the easement (outside the project limits) and the installation of an infiltration trench at another locations. Mr. Morgan offers to take another look at the stormwater treatment in this area.
- He has added stone to the swale at the end of STA 126 (see 18), modified the swale, the check dams and increased the stone at the outfall.
- He could not alter the sediment trap near the riverfront area at STA 138 on the right because of the right of way (ROW) easements which needs the approval of the homeowner (Arthur Lage). The commission asks for an update on the deed transfer of the Lage property to the town as it would benefit the town to have more drainage at this location. Town Administrator Ed Thorne stated he would contact town counsel in the morning regarding this transfer.
- A legend of soil borings and key have been added to the plan
- Mr. Morgan has submitted a letter stating that the project has been designed to maintain pre-development rates of runoff through structural approaches and design of stormwater Best Management Practices in accordance with the latest MassDEP Stormwater Management Policy. Increases in runoff associated with the proposed project have been mitigated to the extent practicable and the proposed improvement should not adversely affect the surrounding drainage patterns or increase the potential for flooding impacts.

Comments from member Carey Day: Mr. Day would like to point out that since the original plans were submitted for the Environmental Notification Form in March, the commission has reviewed 4 to 5 revisions of the project and that the commission has requested more than 200 changes/improvements to the plans. He said that CHA has done a decent job addressing 97 percent of the changes and that the conservation commission has spent seven weekends reviewing the project for the Town of Pembroke. He says that the project covers over three (3) miles of roadway and now 4,800 feet are now being treated for roadway runoff. The original plans had untreated water directly entering the ponds at Johns Barbershop and also at Maquan Street.

Mr. Day states that he has stayed on the board to see this project through to completion for DPW Director Gene Fulmine and the Town of Pembroke. He, like the other members of the conservation commission, is here in the best interest of the community and not for personal gain.

Comments from member Michael Kirby: Mr. Kirby made the statement that it was Carey Day, on behalf of the commission, who did 99 percent of the work on this project. This project would not be here without the assistance of Carey Day. He cannot understand why the selectboard chose to dismiss Carey Day.

Comments from agent Bob Clarke: Mr. Clarke says that the conservation commission started with a set of plans that did not address any ecological benefits. The conservation commission identified and fought for two areas that needed protection. The end result is not necessarily what the Town of Pembroke deserves. He makes the comment that if this particular project was part of a subdivision, it would not meet current standards and it would not be allowed to be constructed.

Comments from selectboard member Dan Trabucco: Mr. Trabucco apologized for not attending any prior meetings as the selectboard has had a summer schedule.

Comments from selectboard chairperson Arthur Boyle: Mr. Boyle speaks of the project and the 95 % improvement that he has seen. He states that the project is important to the town.

Additional comments from member Carey Day: Mr. Day has additional comments not previously discussed.

- Leaching basins: Much of the stormwater management Best Management Practices (BMPs) involve the use of leaching basins. It has been previously stated that the Town of Pembroke DPW does not have the equipment needed for the maintenance of these BMPs. It does not make sense to buy and install BMPs that will fail in 5 years. If the town is being forced to have them, we need a way to maintain them. It was also noted that the application does not provide any information on the operation and maintenance of these structures. Mr. Day reviewed the plans and indicated the location and number of leaching basins that could be removed.
- Rip Rap: The latest plans do not depict the additional rip rap at all of the outfall pipes. The ensuing discussion involved the ROW process and the easements needed for some of the outfall pipes.
- Erosion Controls: The latest plans do not depict areas where temporary erosion controls will be needed. A stockpile of straw wattles need to be on hand at all times to provide temporary erosion control near driveways. Several areas depicted on the plan do not have any erosion controls such as the parking lot near STA18. Mr. Morgan indicates that there is an easement and ROW issue at this location.
- Town Pound: This is not a wetland issue, but the town recently worked with the utility company to remove a pole from the front of the town pound. The town pound is a historic artifact and part of our community heritage. As proposed, a utility pole will be installed front and center of the town pound at a distance of two feet from the wall. CHA was requested to work to have it moved.

Comments from peer review engineer Barbara Thissell: Ms. Thissell had submitted a comment letter (dated July 26, 2015) which had previously been distributed to all parties. The following is a summary of the comments/discussion:

- Order of Conditions (OOC): Ms. Thissell had also reviewed a draft OOC with CHA comments and provided her own comments and revisions for consideration. The OOC needs to identify everything within Pembroke Conservation Commission jurisdictional areas.
- Rip Rap: Although previously discussed, she also emphasized the need for additional details on rip rap including: minimum stone size; depth of stone; and length and width of pad.
- Trees: Ms. Thissell has recommended that trees not designated for removal which are irreparably damaged shall be replaced by the Contractor at his own cost. Also the number of replacement trees, replacement size, species, and location of replanting (within the layout of the project; private land; and jurisdictional areas).
- Dates: A discussion on dates to be included in the OOC was debated.
- Drawdown Activities: A discussion on dewatering activities and wording for inclusion in the OOC.
- Sediment tank specifications: the plan detail proposes an 8-inch inlet and outlet pipes, though 15-inch pipes are proposed (typo to be corrected).

Timeline for completion of the review and conditions to be included in the Order:

- Mr. Morgan says that CHA can submit revised plans by Thursday afternoon. The commission will distribute the copies of full-sized plans to Mr. Day and Ms. Thissell for a weekend review.
- CHA is not available for a meeting on Monday, August 3, 2015.
- Additional conditions to be included in OOC:
 - Page 3 of the submitted plans need to be reserved to include a copy of the approved special conditions (and the OOC needs to be worded for its inclusion);
 - DEP signs are to be placed at the beginning and end of each segment of the project;
 - All filter tubes will be biodegradable;
 - Tree protection shall be at the drip line;
 - Methods for concrete truck washout need to be specified; and
 - Administrative agent is to compile a list of conditions to be sent to all parties.

Motion to continue hearing until Tuesday, August 4, 2015 at 7:00 p.m.: Michael Kirby

Second: Bob Clarke

Vote: 3-0-1 (for-against-abstain. Carey Day abstains from vote)

Adjournment

A motion was made by Michael Kirby to adjourn the meeting at 9:30 p.m. Second by Bob Clarke. All in favor.