

**MINUTES- 26 February 2007
Hopkinton Town Hall, Room 216**

**Called to Order: 7:30 PM
Adjourned: 10:00 PM**

Members Present: Robert Murphy, Jack Speranza, Steven Radel, Craig Nation, Michael Carmody, Ellen Chagnon: Conservation Scientist, Don MacAdam: Conservation Administrator

Members Absent: Jeffrey Barnes, David Teitelman

7:30 PM Commission Business

- A discussion regarding the appeal of the DPW Fruit Street Wastewater Treatment Facility (188-1365) was held. The Commission determined to forward a response letter to DEP.
- The Commission signed the following document:
 - Pellegrini, 11 Clinton St - Extension Permit (188-1278)
- Mr. Carmody made a motion to approve the 53E ½ Request for Payment dated 26 February 2007 for EMC Environmental Services, Inc. only. The motion was seconded by Mr. Nation and it passed unanimously.

**7:45 PM Carlson, 111 Pond Street
Informal**

Kevin O'Leary, The Jillson Company; Dennis Carlson, owner

Mr. O'Leary presented a proposed plan to construct an addition to an existing home and to replace an existing garage, which will be located further away from the wetland. A discussion was held regarding the existing site conditions and the Commission determined that the proposed work is eligible for a Request for Determination of Applicability filing.

7:50 PM Commission Business

- Mr. Speranza made a motion to cancel the hearing scheduled for 19 March 2007. The motion was seconded by Mr. Carmody and it passed unanimously.
- Mr. Speranza made a motion to approve the amended 6 November 2006 minutes. The motion was seconded by Mr. Nation and it passed unanimously.
- Mr. Speranza made a motion to hire Fay, Spofford, & Thorndike to review the proposed stormwater management revisions for E.L. Harvey, Padik Circle (188-1367). The motion was seconded by Mr. Carmody and it passed unanimously.

- Mr. Carmody made a motion to approve the request for consultant funds from the Planning Board to cover the cost of review of the Draft Stormwater Management Bylaw by Fay, Spofford, & Thorndike. The motion was seconded by Mr. Speranza and it was passed by everyone except Mr. Nation who opposed.
- Mr. Carmody made a motion to issue a project change letter to White, 0 Beach Street/0 Duffield Road (188-1359) for an amended house foundation, the location of a cultec unit for roof drainage, the installation of an irrigation well, locations for a dumpster, building material storage, soil stockpile, and the temporary use of riprap on the driveway, as identified on the request letter and sketch plan received on 26 February 2007. The motion was seconded by Mr. Radel and it passed unanimously.

**8:00 PM E.L. Harvey, 1, 2, 4, 6, 8 Padik Circle
Notice of Intent- continuation**

DEP File No. 188-1367

Gerald Cushing and J.R. Frey, Brown & Caldwell

Mr. Cushing presented amended plans and provided an overview of the proposed changes to the stormwater management system, along with a response to Ms. Chagnon's review letter. Mr. Frey stated that he has conferred with Mr. David Glenn, Fay, Spofford, & Thorndike (FS&T), and that he believes that Mr. Glenn may be able to provide comments to the Commission by 5 March 2007. Ms. Chagnon stated that if FS&T can provide comments by then, the Commission may be able to close the hearing at the next meeting. The hearing was continued to 12 March 2007.

**9:00 PM Hopkinton Trails Committee, High School Property
(8:15 PM) Informal**

Liisa Jackson, Hopkinton Trails Committee

A discussion was held regarding proposed improvements of the existing Center Trail on the High School open space parcel.

**8:30 PM MassHighway, off Elm Street/I-495
Notice of Intent - continuation**

DEP File No. 188-1369

William Clougherty and Michael Giando, MassHighway

Mr. Clougherty submitted an amended plan and stated that he had spoken with Derek Standish of DEP, who requested that the wetland replication plan note that the replication area must be reestablished with at least 75% of native vegetation within two growing seasons. Mr. Murphy requested that MassHighway reimburse the Commission for consultant costs that the Commission will incur for its review of the filing under the Wetlands Protection Act and for the monitoring of the restoration work. Mr. Clougherty stated that it is his understanding that MassHighway is exempt from peer review.

Mr. Giando provided an overview of the solid waste on site and the proposed procedure for capping the existing landfill.

The Commission determined that the existing monitoring wells were installed by MassHighway without a permit from the Commission under the Wetlands Protection Act.

Mr. Clougherty stated that the proposed site restoration in Hopkinton is linked with two other projects in different towns that already have received wetland permits and that MassHighway is under a severe time constraint to perform the three projects under the DEP Solid Waste Permit. Mr. Speranza stated that the Commission is not opposed to site restoration but is concerned that the town will be left to bear an unreasonable amount of the financial burden to review and monitor the project under state law. Mr. Speranza stated that he believes that Commission must treat all applicants equally under its review of the Act and that to treat this applicant differently will set a precedent. Mr. Speranza stated that the burden is upon the applicant to demonstrate that MassHighway is exempt from peer review and that he believes the information submitted on behalf of MassHighway not being subject to consultant fees for review of the Notice of Intent is not convincing. Mr. Radel stated that he agrees with Mr. Speranza. Mr. Clougherty stated that the Commission could have Town Counsel review the submitted information. Mr. Speranza stated that requesting a legal opinion from Town Counsel is not necessary because he and Mr. Radel are attorneys.

Mr. Clougherty stated that MassHighway submitted its application to the Commission back in November of 2006 and that they are under considerable time constraints and that the Commission may wish to consider issuing a Denial Order of Conditions and allow for MassHighway to appeal to DEP. A discussion was held regarding the specifics of MassHighway's time constraints. Mr. Radel stated that the project appears to be a beneficial project but that the Commission cannot be irresponsible with the limited finances of the Town.

Mr. Carmody made a motion to close the hearing and issue a Denial Order of Conditions under the Act on the grounds that insufficient information has been provided to allow the Commission to make a decision, as discussed during the public hearings. The motion was seconded by Mr. Radel and it passed unanimously.

**9:15 PM Herlihy, 5 Stagecoach Way
 Lake Whitehall Violations**

No representative attended the hearing.

**9:30 PM Shum, 7 Stagecoach Way
 Lake Whitehall Violations**

Lee Lim, representative

Mr. MacAdam stated that Lake Whitehall State Park officials notified the Commission that of vegetation had been cleared on state property within 100 feet of Lake Whitehall. Mr. MacAdam stated that he performed a site visit and observed where vegetation had been cleared on the state property and observed vegetation clearing on the abutting 7 Stagecoach Way property.

Mr. Lim stated that he maintains the area as a clearing because the area was cleared when he purchased the property. Mr. Lim stated that he has not performed any site clearing on the state property. Mr. Lim stated that the previous owners accessed Lake Whitehall from the property for recreational purposes and may have performed the vegetation clearing.

A discussion was held regarding the development of the property under the original Order of Conditions.

Mr. Lim agreed to install sign medallions to act as a permanent immovable barrier at the limit of disturbance (LOD) within the Commission's jurisdiction as identified on the approved Order of Conditions survey plan for DEP File Number 188-896 and to cease any further maintenance or site disturbance beyond the LOD.

9:45 PM Commission Business

Mr. Speranza made a motion to acknowledge the disclosure of Ellen Chagnon, Conservation Scientist, for potential financial interest regarding Hopkinton Campus, LLC and that the Commission agrees that the interest is not so substantial as to affect her ability to objectively perform her responsibilities to the Commission. The motion was seconded by Mr. Carmody and it passed unanimously.

Minutes Approved: April 23, 2007