

MINUTES- 19 November 2007
Hopkinton Town Hall, Room 216

Called to Order: 7:30 PM
Adjourned: 10:15 PM

Members Present: Robert Murphy, Jeffrey Barnes, Craig Nation, Michael Carmody, Andre Griben, Ellen Chagnon: Conservation Scientist, Anna Rogers: Conservation Secretary

Members Absent: David Teitelman, Steven Radel, Don MacAdam: Conservation Administrator

7:30 PM Commission Business

- David Goldman of Hopkinton Area Land Trust (HALT), requested some time on a future agenda to discuss stewardship and conservation restrictions (CR) with the Commission. He stated there are some legal requirements for yearly stewardship. Mr. Murphy stated the Commission has discussed the CR inventory in the Commission's jurisdiction and they need to look into it further. Mr. Goldman asked if the Commission had a list of CRs they hold. Ms. Chagnon stated they do have a list. The Commission asked Mr. Goldman to come to the 3 December meeting for further discussion.
- Mr. Murphy signed Mr. MacAdam's performance objectives.

7:30 PM Cholakis, Eagle Scout Trail Project
(7:40 PM) Informal Hearing

Nick Cholakis, Hopkinton Troop 4 Eagle Scout

Mr. Cholakis stated he worked on the Town owned Berry Acres trail over the last year and wanted to give the Commission an update on the project. He stated he created and reconstructed bridges, built benches, and marked the trail. Mr. Griben noted that unfortunately they have needed to repair some of the work Mr. Cholakis did due to vandalism. Mr. Cholakis thanked the Commission for their help permitting the project and supporting him. The Commission thanked Mr. Cholakis for a great job on the trail.

7:45 PM Commission Business

- Mr. Barnes made a motion to approve the Request for Payment dated 19 November 2007. The motion was seconded by Mr. Carmody and it passed unanimously.
- Mr. Carmody made a motion to approve the minutes of 15 October 2007. The motion was seconded by Mr. Nation and it passed unanimously.
- Mr. Barnes made a motion to approve the minutes of 29 October 2007, with revisions. The motion was seconded by Mr. Nation and was passed by everyone except Mr. Carmody who abstained.

Selectmen that the Town accept the gift if and when it is offered. He stated there are conservation benefits to this property and the Commission should reference the potential wetland crossing. Ms. Chagnon stated that the property is not being offered formally at this point.

**8:15 PM LePage & Sisco, 112 East Main Street
Violation Hearing**

Valerie LePage, property owner; Bill Sisco, Sisco Timber Company

Mr. Sisco stated that his company did the cutting on the property. He stated he believed there was an agriculture exemption on the property. He stated his company went closer to the wetlands than expected because some trees were damaged when other trees fell. Ms. Chagnon stated that trees were cut in the buffer zone and a few were cut in the wetlands. She stated the buffer zone has been completely cleared right up to the wetland edge. Mr. Sisco stated some of the buffer zone was already cleared. Ms. LePage stated a lot of the property was not maintained and was allowed to grow back naturally for many years.

Ms. Chagnon stated the property does not have an agricultural exemption unless it is used to raise horses for sale. Mr. Sisco stated Ms. LePage uses the property for a riding stable. Ms. Chagnon stated that 36 stumps were counted within the wetlands and buffer zone at a total of 943 inches cut. She stated a potential \$189,000 fine could be imposed on the property for the violation. Ms. LePage stated she wasn't aware they were taking that many trees.

Mr. Murphy asked why the trees were taken down. Ms. LePage stated she had some very large, dead trees close to the house and in exchange for removing those, she allowed Mr. Sisco remove others, which also allowed her extra room to expand the riding areas. Mr. Murphy stated there are provisions under the Act and Bylaw for tree removal, and buffer zone clearing might have been permitted with provisions for protecting the wetlands.

Mr. Griben asked how the trees were taken down. Mr. Sisco stated they were just dropped. He stated they are a logging company that works all over Massachusetts and this is the first time he has had a problem.

Mr. Murphy stated that he understands the trees close to the house were a problem and it looks like they were even outside the buffer zone. He stated that buffer zone clearing might have been approved but would not have been approved within the 50-foot setback. He stated there is plenty of the property that is clear and outside the buffer zone. He stated he would suggest a filing after-the-fact to document the clearing. He stated that, at minimum, the 0 to 50-foot buffer should be restored.

Ms. Chagnon stated that in a similar situation two years ago, the issue of unpermitted clearing was documented and restoration required via an Enforcement and Restoration Order (ERO). Mr. Murphy stated that would be acceptable. He stated that the Commission would usually consider reducing or waiving the fines if all conditions of the ERO have been satisfied. Ms. Chagnon stated that a wetland delineation must be done and put onto a survey plan. She suggested the property be left alone and allowed to naturally re-vegetate, which should work because the area has not been grubbed.

Ms. LePage stated that sometime in the future she would like to expand her paddocks and that expansion might be in the buffer zone. Mr. Murphy stated that can be a separate discussion when the time comes and that the paddock expansion must be outside the 50-foot setback. He stated that when the delineation has been performed, the Commission will issue the ERO and after two

growing seasons, the Commission will review the site. He stated that the fine will be put on hold until the area grows back.

Ms. Chagnon stated the Commission will send a letter to Ms. LePage and Mr. Sisco explaining what needs to be done. Mr. Murphy stated that no work should occur on the property until the buffer zone has been documented.

8:30 PM **Hogue, 42 Cedar Street**
(8:40 PM) **Notice of Intent Hearing**

DEP File No. 188-1398

Stephen Hogue, owner/applicant; Joseph P. Marquedant, JD Marquedant & Associates, Inc.

Mr. Marquedant gave an overview of the proposed razing and rebuilding of a single family house, with associated grading and septic system. He stated that water coming down Cedar Street eroded under the existing house and compromised it and that the house is uninhabitable and needs to be torn down. He stated they are proposing to build the new house further away from the wetlands than it is currently.

Ms. Chagnon stated the area is previously disturbed and the wetland edge is the edge of the fill brought in to build the original house. Mr. Marquedant stated they will construct a shallow swale in between the new house and the adjacent house to direct the water down to the wetlands in order to prevent runoff from eroding and destroying the new house. Ms. Chagnon asked if there was any way to keep the water from going down the swale until it is stabilized. Mr. Marquedant stated he could put in some check dams to slow the water down.

Ms. Chagnon asked if there were going to be drywells for roof runoff. After some discussion, it was decided not to include drywells as a condition of approval.

Nancy Peters, 258 Wood Street, asked if the septic system was in failure. Mr. Marquedant replied that it was not, but it would be replaced.

Mr. Carmody made a motion to close the hearing and approve issuing an Order of Conditions with the standard conditions following submission of a revised plan. The motion was seconded by Mr. Barnes and it passed unanimously.

8:45 PM **Guerriere & Halnon, 77 West Main Street**
(8:55 PM) **Informal Hearing**

Paul Mastroianni, owner; Bob Poxon, Guerriere & Halnon

Mr. Poxon stated that they are meeting with the Commission to discuss some changes to the existing plaza where the Dynasty Restaurant is located. He stated that they would like to add an additional 5,000-square foot, two-story building behind the existing building, maintaining the same limit of pavement, and reducing the amount of open space on the parcel by one percent. He stated that they will be in compliance with current parking requirements. He stated that about one half of the building will be within the 100-foot buffer zone but the entire building will be located within existing pavement areas. He stated they plan on adding hoods to the catch basins to help keep the discharge cleaner, but are not planning to add additional drainage structures. He stated there will be no new disturbance on the site. He stated they are looking for feedback before putting together a final proposal.

Ms. Chagnon asked what they would be doing relative to compliance with stormwater management regulations. Mr. Griben noted the plans show the parking lot pitched towards the wetlands and asked if it will be leveled off. Mr. Poxon stated the existing grades will remain the same. Ms. Chagnon stated this is a redevelopment project but current DEP stormwater standards apply and must be met to the maximum extent practicable. She stated the site has had terrible impacts on the wetlands. Mr. Murphy stated the Commission would like to see significant attempts to clean the site up.

Mr. Poxon stated there is direct discharge into the wetlands right now. He stated they are going to be replacing/reconstructing some of the drainage structures. He stated there was supposed to be a detention basin on the property but it isn't really there. Ms. Chagnon asked if they had considered subsurface detention. She stated they would like the situation improved but understand the significant financial obligations associated with it. Mr. Murphy stated that when and if the project is submitted for approval, the Commission would like to see major stormwater management improvements.

9:00 PM Riley, 201 West Main Street
(9:05 PM) Violation Hearing

Michael and Yvonne Riley, owners

Mr. Riley stated that he received a letter from the Commission stating there were some violations on his property. He stated the path leading to the lake has been there for years. He stated some trees were cleared by a professional tree company. He stated that rain water was coming off the roadway and eroding the path and flowing right into the lake. He stated that some leftover wood chips from the tree removal were spread along the path to help even it out and slow down the water but that the wood chips are no closer than 50 feet from the lake.

Ms. Chagnon stated a dock has been installed at the lake shore. Mr. Riley stated that he hired someone to install the dock and was told all necessary permits had been obtained. He stated he has contacted the state and now has an application number for the Chapter 91 Waterways Permit. He stated the dock is on aluminum pods and they didn't use pressure treated wood on the decking to minimize the impact.

Ms. Chagnon stated a shed has also been constructed on the property close to the lake. She stated all the work that was done in the buffer zone must be documented with an after-the-fact Notice of Intent (NOI). Mr. Murphy stated that the filing is required even though the work has been completed and that any work within the buffer zone needs approval before being done. Mr. Riley stated that the path has been there for years. Mr. Murphy stated that the Rileys must file a NOI and the Commission will hold a public hearing to discuss conditions that must be met, including no further disturbance, etc. Ms. Chagnon suggested the Commission set a date as to when they want the NOI submitted. The Commission determined the NOI must be submitted within 30 days.

9:15 PM Mass Turnpike, I-90 East & West in Hopkinton DEP File No. 188-1399
(9:20 PM) Notice of Intent Hearing

Peter Cavicchi, Mass Turnpike; Eric Olson and Ed Hutchinson, Tetra Tech Rizzo

Ms. Chagnon stated her husband is an employee of Tetra Tech Rizzo, but that he is not working on this project. Mr. Griben stated his brother is an employee for Tetra Tech Rizzo in a different state.

9:50 PM Commission Business

- The Commission discussed the request from LLD Land Development Corporation, developers of Rockwood Meadows, to review the CR to be placed on the open space in Hopkinton. Ms. Chagnon suggested asking LLD for a sum of money to go towards stewardship. The Commission determined to have Ms. Chagnon review the CR and come back to the Commission with her comments and/or concerns.
- The Commission requested the list of CRs the Commission holds be available for discussion at the next meeting.
- A discussion was held on the request made by the Hopkinton DPW, 66 Fruit Street, WWTF (188-1365) for a project change. The Commission determined that since the Order of Conditions has been appealed, the Commission can't act on the request. Mr. Carmody made a motion to send the DPW a letter stating why they can't act on the request at this time. The motion was seconded by Mr. Griben and it was passed unanimously.
- A discussion was held regarding the request made by the Laborers Training Center, 37 East Street (ERO 188-774) to allow for extra time to install the required plantings. Ms. Chagnon stated they have been working on their *Phragmites* control but more work is still needed. Mr. Carmody made a motion to extend the planting deadline to 1 June 2008. The motion was seconded by Mr. Nation and it was passed unanimously.
- A discussion was held regarding the Town's snow dump on Cedar Street. Ms. Chagnon stated the DPW submitted a survey plan but a valid Order of Conditions should be on file. The Commission determined to send a letter to the DPW stating a NOI must be submitted no later than 1 March 2008.
- A discussion was held regarding a request made by Toll Brothers, Inc., 0 and 18 Overlook Road (188-1395) to start work before the Amended Order of Conditions has been approved and issued. Ms. Chagnon stated she has visited the site and they are trying to get their water problems solved. The Commission determined it was permissible for the work to begin.
- Mr. Barnes made a motion to approve, as an insignificant project change, the request made by DelGaudio, 3 Cranberry Lane (RDA 2007-18) to use the excavated fill from the new addition foundation to level off the side yard. The motion was seconded by Mr. Carmody and it was passed unanimously.
- The Commission signed a signature page for Cowart, 34 North Mill Street (RDA 2007-19).

Minutes Approved: 17 December 2007