

**MINUTES OF THE PROCEEDINGS OF THE
CONSERVATION COMMISSION OF THE CITY OF WORCESTER**

May 19, 2014

WORCESTER CITY HALL – LEVI LINCOLN ROOM

Conservation Commission Members Present: Stefanie Wood, Chair
Jack Donahue
Jordan Berg Powers
Joseph Charpentier

Members Absent:

Staff Present: Christopher Gagne, Department of Public Works & Parks (DPW&P)
Stephen Rolle, Division of Planning & Regulatory Services
Nancy Tran, Division of Planning & Regulatory Services

CALL TO ORDER

The Chair called the meeting to order at 5:41 pm.

APPROVAL OF THE MINUTES

None

UNFINISHED BUSINESS

Public Meeting

**1. 500 Salisbury Street (south of Maintenance Building, near 69 Nelson Pl) (CC-2014-022)
– Request for Determination of Applicability**

Megan Buczynski from activitas appeared before the Commission on behalf of the applicant, Assumption College for a Request for Determination to seek determination as to whether the area and/or work related to the renovation and expansion of four existing tennis courts to six, detention basin expansion, construction of a storage building, concrete ramp, stairs and retaining wall at 500 Salisbury Street (south of Maintenance Building, near 69 Nelson Pl) are subject to the jurisdiction of the Wetlands Protection Act and/or Wetlands Protection Ordinance. Other proposed work includes grading, drainage, paving, landscaping and fence installation. She stated that the Commission requested more information from the prior meeting regarding the following:

- i. How would the proposed detention basin will affect the credit/debit system outlined in the stormwater master plan?

Ms. Buczynski stated the project would have zero net impact on the debit/credit system. The proposed project would provide adequate storage to the existing detention basin to meet Stormwater Management Standards. The project intent was not to construct a larger basin larger solely to provide detention and treatment nor utilize existing storage and credit it to the master plan.

- ii. Was the wetland considered important in terms of habitat and how would the disturbed area be reestablished?

Ms. Buczynski stated that the Commissioner further examined the existing conditions in and around the surrounding wetlands during the site walk. Commissioners observed a number of invasive species along the slope where disturbance was proposed for basin enlargement. She stated that while the basin may provide some habitat for wildlife, the project disturbance would remove invasive species along the edge. She added that the work would encroach into maintained grass area which was not good habitat area. Ms. Buczynski stated that the disturbed slope would be replanted with a variety of highbush blueberry, sweet pepperbush and silky dogwood – all of which are native and grow in a broad range of saturation.

iii. What was the proposed increase impervious surface on site?

Ms. Buczynski stated the original layout proposed a 10,914 SF increase in impervious surface while the revised layout proposed a 12,354 SF increase.

iv. What were the proposed plan changes?

Ms. Buczynski stated the proposed changes sought to maintain existing court orientation, pushing them northerly approximately 17' and provide additional courts to the south outside the wetlands buffer. There will be a reduction in impervious area within the wetland buffers all work within the buffer on the southerly side had previously been disturbed.

Chair Wood asked if construction were proposed outside the buffer zone and whether catchbasins could handle stormwater. Ms. Buczynski stated all work will meet Stormwater Handbook conditions.

Mr. Gagne of DPW&P had no comments.

Upon a motion by Commissioner Donahue and seconded by Commissioner Berg Powers, the Commission voted 3-0-1 (Commissioner Charpentier abstained) to issue a Negative Determination of Applicability.

List of Exhibits:

Exhibit A: Request for Determination of Applicability Application for 500 Salisbury Street (south of Maintenance Building, near 69 Nelson Pl); received April 9, 2014.

Exhibit B: Site Plan and Details for Assumption College, Tennis Facility Renovation; prepared by Activitas; dated and received April 9, 2014; undated revision and received May 19, 2014.

Exhibit C: Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; re: 500 Salisbury- RDA (CC-2014-022); dated April 18, 2014.

Public Meeting

2. 38 Toronita Avenue (Lots 1, 2 & 3) (CC-2014-015) – Notice of Intent

Engineer Kevin Quinn of Quinn Engineering appeared before the Commission on behalf of the applicant, AET Realty Trust, for a Notice of Intent to demolish an existing single-family dwelling and construct three single-family detached dwellings with associated site work at 38 Toronita Avenue (Lots 1, 2 and 3, MBL: 33-018-00107). Mr. Quinn stated that the item was continued by the Commission to allow time for plan revisions and a site walk. The site walk never took place because excessive street flood that is not normal to the area. He indicated that the wetlands were located downstream and believed that the culvert was plugged.

Chair Wood inquired what was causing the blockage. Mr. Quinn stated he would not know until the water is pumped out.

Chair Wood asked if Mr. Quinn was requesting an Emergency Certification to pump the water. Mr. Quinn replied in the affirmative and stated that the flooding was unusual and may negatively the downstream wetlands downstream.

Commissioner Berg Powers said neighbors previously expressed concern. He stated the site visit should be rescheduled.

Commissioner Donahue expressed his concern regarding how pumping would be controlled and whether it will be filtered. Mr. Quinn responded that a contractor will monitor a perforated trash can and filter.

Chair Wood suggested using a 30 gallon drum with filter fabric with another container inside for additional filtration. She clarified the pumping work would be done under the Emergency Certification and not relative to the Notice of Intent.

Commissioner Charpentier asked if the flooding occurred yearly or whether it was a unique occurrence, to which Mr. Quinn stated he believed it was a recent occurrence.

Joe Landry, abutter at 6 Luther Avenue, confirmed that the flooding was recent following paving done by a contractor. He added that the rate of water had increased.

Upon a motion by Chair Wood and seconded by Commissioner Berg Powers, the Commission voted 4-0 to issue an Emergency Certification with condition that Mr. Gagne and a Commissioner be present when the pumping apparatus is installed and that cause of the blockage is investigated and reported immediately to DPW&P.

Mr. Gagne of DPW&P had no comments.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Donahue, the Commission voted 3-0-1 to continue the Notice of Intent to June 2, 2014.

List of Exhibits:

- Exhibit A: Notice of Intent Application for 38 Toronita Avenue (Lots 1, 2 and 3); received March 12, 2014.
- Exhibit B: Definitive Site Plan 38 Toronita Avenue; prepared by Quinn Engineering, Inc.; dated March 11, 2014; received March 12, 2014; revised May 7, 2014 and last revised; received August 14, 2014.
- Exhibit C: Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; re: 38 Toronita Avenue –Revised, NOI – CC-2014-015; dated May 29, 2014.

3. 0 Whippoorwill Drive (Lots 17B, 17C & 17D) (CC-2014-020) – Notice of Intent

Engineer John Grenier of J.M. Grenier Associates, Inc. appeared before the Commission on behalf of the applicant, Sunward Manor, LLC, for a Notice of Intent to construct three single-family detached dwellings with associated site work at 0 Whippoorwill Drive (Lots 17B, 17C and 17D, MBL: 32-011-00017).

Mr. Grenier stated the commissioners attended the site walk and observed well defined wetlands boundaries. He said he submitted revised plans addressing the Commission's comments from its

previous meeting regarding infiltration of roof runoff, permanent monument installation on the 30' buffer to provide a distinct 'no build' boundary. Mr. Grenier stated there were some areas with debris and assured the Commission that it would be cleaned up as part of the project.

Chair Wood asked about water discharge, to which Mr. Grenier responded a perimeter drain was originally proposed within the 30' 'no build' buffer but that the plan had since been modified so that it would be outside the buffer.

Mr. Gagne of DPW&P had no comments.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Donahue, the Commission voted 4-0 to close the hearing. Discussion regarding issuance of Order of Conditions for this item was held to the end of the meeting.

List of Exhibits:

Exhibit A: Notice of Intent Application for 0 Whippoorwill Drive (Lots 17B, 17C, 17D); received April 9, 2014.

Exhibit B: Notice of Intent Plan for Lot 17B, 17C & 17D Whippoorwill Drive; prepared by J.M. Grenier Associates, Inc.; dated April 8, 2014; received April 9, 2014; last revised and received May 15, 2014.

Exhibit C: Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; re: Lot 17B, 17C & 17D Whippoorwill Drive (CC-2014-020); dated April 18, 2014.

NEW BUSINESS

4. 122A (Grove Street, from Nelson Place to Holden town line) (CC-2014-024)– Request for Determination of Applicability

Environmental engineer William Clougherty of MassDOT, District 3 appeared before the Commission for a Request for Determination of Applicability to seek determination as to whether the work related to the resurfacing of Route 122A – Grove Street, from Nelson Place to Holden town line (~1.5 miles within the City of Worcester) and associated highway improvements are subject to the jurisdiction of the Wetlands Protection Act.

Mr. Clougherty stated the work is part of a roadway project in Worcester that initially was proposed into Holden but was reduced due to an existing water line replacement project. He said MassDOT sought to resurface Route 122A – Grove Street, from Nelson Place to Holden town line with associated highway improvements. He stated there will be some culvert crossings that will require straw wattles installation but that most work will be limited to existing paved areas.

Commissioner Donahue asked if the scope of work would affect the nearby coldwater fishery that runs off of Route 122. Mr. Clougherty responded that the limit of work will be outside the Ararat brook area and would not impact it.

Commissioner Berg Powers asked about the type of barriers to be used to protect the resource areas. Mr. Clougherty stated there were two culvert crossings and pointed out on the map the locations where straw wattles will be installed.

Commissioner Berg Powers asked how long work would take, to which Mr. Clougherty stated about two weeks.

Commissioner Charpentier inquired whether the surface drains deposited runoff into Indian Lake. Mr. Clougherty stated he believed that it does. Commissioner Charpentier asked if there would be any preventive measures to protect debris from entering the drains. Mr. Clougherty stated silt sacks will be installed inside the catch basins.

Rick and Mary Gamache of 704 Grove Street stated they expressed concern about the runoff going into their yard. Mr. Clougherty stated the nature of the work is all within the roadway and that MassDOT was not proposing new impervious areas. He added that there is an existing open channel and a culvert at Abbott Lane, both of which will be protected with appropriate erosion controls.

Upon a motion by Commissioner Donahue and seconded by Commissioner Berg Powers, the Commission voted 4-0 to issue a Negative Determination of Applicability with the condition that silt sacks be installed.

List of Exhibits:

- Exhibit A: Request for Determination of Applicability for Route 122A submitted by MassDOT; received April 28, 2014.
- Exhibit B: Locus Map, Worcester/Holden – Route 122A Resurfacing and Related Work; prepared by MassDOT; undated, received April 28, 2014; last revised May 19, 2014, received May 19, 2014
- Exhibit C: Compost Filter Tube Standard Specification and Detail Plan; prepared by MassDOT; undated; received April 28, 2014.
- Exhibit D: Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; re: Route 122A – RDA (CC-2014-024); dated May 13, 2014.

5. 122 (Pleasant Street, from Olean Street South to Paxton town line) (CC-2014-025)– Request for Determination of Applicability

Mr. Clougherty appeared before the Commission for a Request for Determination of Applicability to seek determination as to whether the work related to the resurfacing of Route 122 – Pleasant Street, from Olean Street South to Paxton town line (~1.4 miles within the City of Worcester) and associated highway improvements are subject to the jurisdiction of the Wetlands Protection Act. Mr. Clougherty stated this is for roadway project on Route 122 and the northerly limit is Paxton town line and from Olean Street South. The project qualifies as limited project under the Wetlands Protection Act for maintenance and improvement to existing public roadways, including widening less than a lane width, adding shoulders, correcting substandard intersections and improving inadequate drainage systems.

Chair Wood asked whether erosion control to be installed along Meadow Lane and Route 122 will be solely straw wattles itself or installed with silt fences. Mr. Clougherty stated only straw wattles. Chair Wood suggested silt fencing to the south of the sidewalk.

Mr. Gagne stated the proposed scope of work will not provide opportunities for sediment to go beyond the sidewalk. Commissioner Berg Powers stated the Commission preferred to be cautious.

Mr. Clougherty stated that the installation of the wattles would not be invasive, whereas, silt fence installation requires trenching.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Charpentier, the Commission voted 4-0 to issue a Negative Determination of Applicability with the condition that silt fences and silt sacks be placed across the next brook to Meadow Lane with as little disturbance as possible.

List of Exhibits:

- Exhibit A: Request for Determination of Applicability for Route 122 submitted by MassDOT; received April 28, 2014.
- Exhibit B: Locus Map, Worcester/Holden – Route 122 Resurfacing and Related Work; prepared by MassDOT; undated, received April 28, 2014; last revised May 19, 2014, received May 19, 2014
- Exhibit C: Compost Filter Tube Standard Specification and Detail Plan; prepared by MassDOT; undated; received April 28, 2014.
- Exhibit D: Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; re: Route 122 – RDA (CC-2014-025); dated May 13, 2014.

6. City of Worcester Yearly Operation Plan & Vegetation Management Plan (2014-2018) (CC-2014-027) – Request for Determination of Applicability

Mr. Gagne appeared on before the Commission for a Request for Determination of Applicability to seek determination as to whether the citywide area/work along public right of ways, bikepaths, trails to conduct vegetation management and targeted herbicide spraying is subject to the Wetlands Protection Act. He stated that nuisance vegetation would be removed either by herbicide and/or cutting. He indicated that the total average herbicide used by city in a year is approximately seven gallons.

Chair Wood asked if there were any changes to previous year’s plans. Mr. Gagne stated there will be no significant change as compared to previous years.

Commissioner Berg Powers asked if there were records of past work. Mr. Gagne stated work stated he would look into it and report back to the Commission.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Charpentier, the Commission voted 4-0 to issue a Negative Determination of Applicability.

List of Exhibits:

- Exhibit A: Request for Determination of Applicability for City of Worcester Yearly Operational Plan & Vegetation Management Plan submitted by City of Worcester Department of Public Works & Parks; received March 2, 2014.
- Exhibit B: Yearly Operational Plan 2014 (YOP) and Vegetation Management Plan 2014-2018 (VMP); prepared by City of Worcester Department of Public Works & Parks; received May 2, 2014.
- Exhibit C: Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; re: City of Worcester Vegetation Management Plan- RDA (CC-2014-026); dated May 13, 2014.

New Business - Notice of Intent

7. 88 Webster Street (CC-2014-026)

Engineer Gary Magnuson of CMG Environmental, Inc. appeared before the Commission on behalf of Gordon Realty Corp. of Worcester. He stated a Notice of Intent was submitted to excavate up to 20 cubic yards of contaminated soil and backfill the area between the westerly building wall at 88 Webster Street and Curtis Pond bank. He stated the small soil excavation was to remove contaminated soil near the bank of Curtis Pond. Mr. Magnuson stated the area is paved but that silt fencing will be installed at the top for erosion control. He said work would only take one day.

Chair Wood asked the area will be backfilled immediately. Mr. Magnuson stated he planned to but that some cases it does not go according to plan and he may have to go back.

Chair Wood asked the depth of water. Mr. Magnuson stated about seven feet and they will probably go into water table slightly.

Chair Wood asked if there were a contingency plan if dewatering was necessary. Mr. Magnuson stated that no further digging would occur if the area is significantly wet.

Chair Wood stated they had view the property and not a lot of room to do erosion control.

Commissioner Donahue stated they have addressed another contingencies did not see any other alternatives based on the small site.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Charpentier, the Commission voted to close the public hearing. Discussion regarding issuance of Order of Conditions for this item was held to the end of the meeting.

List of Exhibits:

Exhibit A: Notice of Intent Application for 88 Webster Street; received April 30, 2014.

Exhibit B: Figure 6: MW-5 Remediation Plan, Webster Street; dated February 9, 2014; revised April 7, 2014; received April 30, 2014.

Exhibit C: Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; re: 88 Webster Street, NOI –CC-2014-026, NOI – CC-2014-026; dated May 13, 2014.

Other Business

8. Enforcement Order Update – 187 Greenwood Street (CC-EO-2013-001)

Commissioner Donahue recused himself from discussing the item.

Wetlands scientist Dan Wells of Goddard Consulting appeared on behalf of the item. Mr. Wells showed on plans regarding pond and vegetation updates. He stated that not all shrubs survived but that he observed wildlife using the area.

Commissioner Berg Powers asked how the outlet structures have been working. Mr. Wells stated there is only one outlet structure and it was working fine. He stated the owner sought to close the enforcement order.

Commissioner Berg Powers stated he saw site last growing season and it looked good.

Chair Wood stated she liked to re-visit the Order of Conditions in the Fall.

The Commission stated they would review the property the end of September.

9. Enforcement Order Update – Arboretum Village Estates (CC-EO-2013-003)

Mr. Rolle stated at its April 30 meeting, the Planning Board sought to there was item to rescind the existing subdivision approval. Because the mortgage holder objected, rescission was not possible and that staff was working with DEP and the applicant regarding the matter.

Mr. Gagne stated he viewed the site earlier in that morning after heavy weekend rain. He presented photos and pointed out the wide range of cracks behind the slope. He indicated that it was a not a good sign for the rock slope and that he notified the owner and engineer to respond to the recent findings.

Chair Wood stated the Commission voted at its last meeting to request Mr. Gallo and his engineer to come to the present meeting to explain the plan to handle Slope B. She expressed her concern that they were not present and said she wanted to know how Slope B will be stabilized while other work proceeded. Mr. Rolle stated he would communicate the Commission's request for Mr. Gallo's attendance at the next meeting to discuss the slope.

List of Exhibits:

Exhibit A: Letter from Stephen S. Rolle, Director of Planning & Regulatory Services to Arboretum Village, LLC (re: stabilization); dated February 26, 2014.

10. Bond (Letter of Credit) Approval – 72 Goldthwaite, Burncoat Gardens Phase I & V

Engineer Chuck Scott of CFS Engineering appeared before the Commission regarding the item. Mr. Chuck stated the owner was in the process of completing the work and sought to fully clear the site starting from the Hillsboro Drive portion. He indicated that the owner was not looking into to doing work in regions 1 and 2 simultaneously. He said after reviewing the bond with Mr. Gagne, \$67,000 was recommended but since only Region 1 was being done, the owner sought to submit a Letter of Credit for \$30,000. He added that once Region 2 begins, another Letter of Credit for the remaining \$37,000 could be issued.

Chair Wood stated she would prefer the bond be for the entire \$67,000. Mr. Scott stated it was not for a bond, but rather a letter of credit.

Mr. Gagne stated the City had prior problems with bond expiration dates and now require cash or a Letter of Credit from the bank.

Commissioner Donahue stated that it was a reasonable request. He said the owner complied with first steps and assumed would continue to do so. Commissioner Charpentier concurred.

Chair Wood stated the surety will be given for one region and if a second region is disturbed, an additional amount must be posted.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Donahue, the Commission voted 4-0 to accept the surety.

11. Cook's Pond Connector – Request for Approval and Endorsement of the Conservation Restriction to be held by Conservation Commission (and owned in fee by Greater Worcester Land Trust) (41R Moreland Green Drive (MBL 25-055-0000G) and 0 Tory Fort Lane (MBL 40-040-00008 and 40-040-00009)) as part of the Commonwealth Conservation Partnership Grant

Chair Wood stated item is forthcoming. No action was taken on the item.

- 12. 12. 145 Harrington Way – Crow Hill North (aka Ecotarium West Project)** - Request for Recommendation to Convey Conservation Restriction from the City of Worcester (custody of Conservation Commission) to the Greater Worcester Land Trust, as part of the Commonwealth L.A.N.D. Grant requirement.

Chair Wood stated item is forthcoming. No action was taken on the item.

- 13. Worcester Open Space & Recreation Plan** – Review of & Letter of Support for Final Draft of the 7-year plan (2013-2020)

Mr. Rolle stated the Commission may continue to June 2 should it require more time to review the plan. The item was continued to the June 2 meeting.

- 14. Request for Certificate of Compliance** – 365 Plantation Street (CC-2010-034)

Mr. Gagne said the work had been completed and there were no issues.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Donahue, the Commission voted 4-0 to issue a Certificate of Compliance for 365 Plantation Street.

List of Exhibits:

Exhibit A: Request for Certificate of Compliance for 365 Plantation Street; prepared by John Baker; dated May 7, 2014.

- 15. Request for Certificate of Compliance (Partial Release)** – 1 Sophia Drive (CC-2006-059 & CC-2012- 016)

Mr. Gagne stated recommended that it be held as there are some erosion issues.

Chair Wood stated they would hold item.

List of Exhibits:

Exhibit A: Request for Certificate of Compliance for 1 Sophia Drive; prepared by Fox Hill Builders; dated May 8, 2014.

- 16. Request for Certificate of Compliance (Partial Release)**– 17 Enaya Circle (CC-2012-016, DEP-349-1033)

Mr. Gagne stated there are a few issues with the site and the entire building is complete but there are grading problems and not stabilized.

Chair Wood stated they would hold item.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Donahue, the Commission voted 4-0 to deny the Certificate of Compliance for 17 Enaya Circle.

List of Exhibits:

Exhibit A: Request for Certificate of Compliance for 17 Enaya Circle; prepared by Farooq Ansari; dated May 14, 2014.

17. Communication Received:

The Commission reviewed the communication items. Chair Wood reviewed the communications sought for additional information regarding item d, specifically the turbidity reading for April 16. Mr. Gagne stated he would reach out to the owner for elaboration.

- a. From MassDEP re: 401 Water Quality Certification – Amendment 2 at Lake Quinsigamond; dated April 14, 2014; received April 23, 2014.
- b. From National Grid re: Vegetation Management Plan; dated April 21, 2014; received April 24, 2014.
- c. From NSTAR, re: Natural Gas Pipe Relay, Eunice Avenue; dated April 30, 2014; received May 5, 2014.
- d. From Scott Morrison of EcoTec, Inc. re: Arboretum Village Estates Turbidity Report; dated May 2, 2014; received May 5, 2014.

18. Election of Officers

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Charpentier, the Commission voted to appoint Stefanie Wood as Chair and Jack Donahue as Vice-Chair.

19. Discussion & Issuance of Orders of Conditions as relevant to a hearing closed 5/19/2014

The Commission reviewed the closed item and upon a motion by Commissioner Berg Powers and seconded by Commissioner Donahue, the Commission voted 3-0-1 to issue conditions as discussed for 0 Whippoorwill Drive (CC-2014-020).

The Commission reviewed the closed item and upon a motion by Commissioner Berg Powers and seconded by Commissioner Donahue, the Commission voted 4-0 to issue conditions as discussed for 88 Webster Street (CC-2014-026).

20. Signing of Decisions

- **500 Salisbury Street** – Negative Determination of Applicability
- **0 Whippoorwill Drive** – Order of Conditions
- **Route 122A** – Negative Determination of Applicability
- **Route 122** – Negative Determination of Applicability
- **City of Worcester YOP & VMP**– Negative Determination of Applicability
- **88 Webster Street** – Order of Conditions
- **365 Plantation Street** – Certificate of Compliance

Adjournment

Upon a motion the Commission voted to adjourn the meeting 7:45 p.m.