

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

April 30, 2012

WORCESTER CITY HALL – ESTHER HOWLAND ROOM

Conservation Commission Members Present:

Stefanie Wood – Chair
Jeremy Theerman – Vice-Chair
Jordan Berg Powers
Paul Franco
Jack Donahue
Mia McDonald
Joseph Wanat (absent)

Staff Present:

Jonathan P. Gervais, Department of Public Works & Parks
Luba Zhaurova, Division of Planning & Regulatory Services

CALL TO ORDER: The Chair called the meeting to order at 5:30 pm.

APPROVAL OF THE MINUTES: Upon a motion by Mr. Franco and seconded by Mr. Theerman, Commissioners Franco, Theerman, Berg Powers and Donahue approved the 4/9/2012 meeting minutes. Approval of the March 19, 2012 minutes was held.

NEW BUSINESS:

Public Hearing

1. **80 Dawson Road (MBL 54-002-00001)** - Massachusetts Electric Company Easement (CC-2012-009): David Cowell of BSC Group, representative for Massachusetts Electric Company dba National Grid, the applicant, stated that the applicant has applied for a Notice of Intent in order to repair an electric transmission structure. He stated that the proposed maintenance work is exempt under the Wetlands Protection Act, but not under the local Ordinance. He stated that the project is located on the border with the town of Holden. Mr. Cowell stated that timber mats will be used to drive through the wetland to repair this pole and that the work should be completed within 24 hours.

Upon a motion by Mr. Theerman and seconded by Mr. Franco, the Commission voted 6-0 to close the Public Hearing. Discussion regarding the issuance of the Order of Conditions was held to the end of the meeting.

List of Exhibits:

Exhibit A: Notice of Intent Application for Transmission Line A53-29/Structure 194; prepared by BSC Group; submitted April 9, 2012.

Exhibit B: Memorandum from Department of Public Works to Conservation Commission; re: 80 Dawson Street – NOI; dated April 30, 2012.

2. **Nelson Place adjacent to 62, 64 & 74 Nelson Place parcels (CC-2012-010):** Arthur Allen from EcoTec, Inc. and Carl Hultgren from Quinn Engineering, presented the project on behalf of Assumption College, the applicant. Mr. Allen stated that the applicant has applied for a Notice of Intent seeking to improve an existing roadway by re-grading it at a consistent 20-ft width (currently it is an average 18-ft in width), paving with curbs and installing two catch-basins on property located at Nelson Place adjacent to 62, 64 & 74 Nelson Place parcels. He stated that there is an intermittent stream flowing under the road and that the proposed work will improve the quality of water of the stream through: a) installation of the catch-basins which will provide the initial treatment of water runoff and b) paving of a currently unpaved road.

Margaret Foley of 7 Red Wing Road, an abutter, spoke in opposition of the project. She was concerned that the wetlands in the area will be negatively impacted because she believed de-icing chemicals used on paved surfaces will get into the water. She was concerned that paving of the road will bring more traffic through the neighborhood. She submitted pictures of the road and the stream (Exhibit E).

Chair Wood stated that Commission did a comprehensive walk of the Assumption College campus 1-2 years ago. Mr. Allen stated that at a time the stream was not delineated on the plans as it is not part of the campus proper.

Mr. Hultgren stated that Nelson Place is a private street but that he believes that the City might accept it as a public in a future. He stated that Conservation Commission could ask DPW&P not to salt or sand this road. He stated that the gate at the end of the street will remain locked and will serve as a secondary emergency access point for the campus, and therefore, he believed this project would not result in an increase in traffic volume.

Upon a motion by Ms. McDonald and seconded by Mr. Franco, the Commission voted 6-0 to close the Public Hearing. Discussion regarding issuance of Order of Conditions was held to the end of the meeting.

List of the Exhibits:

Exhibit A: Notice of Intent Application for Nelson Place adjacent to 62, 64 & 74 Nelson Place parcels; prepared by Christian McCarthy of Assumption College; received April 10, 2012.

Exhibit B: Roadway Improvement Plan: Nelson Place; prepared by Quinn Engineering, Inc; dated April 3, 2012.

Exhibit C: Stormwater Report: Nelson Place Roadway Improvements; prepared by Quinn Engineering, Inc; dated April 3, 2012.

Exhibit D: Memorandum from Department of Public Works to Conservation Commission; re: Nelson Place Roadway Improvements - NOI; dated April 30, 2012.

Exhibit E: Photographs of the Nelson Place area submitted by Margaret Foley at the Conservation Commission April 30, 2012 meeting.

3. **6-8 Gaylord Street (CC-2012-011):** John Grenier of J.M Grenier Associates, Inc., representative for 3333 Inc., the applicant, stated that the applicant has applied for Notice of Intent and is seeking to construct two single-family detached dwelling units, with filling in of the back yard, with associated parking and landscaping. He stated that the trigger for review was proximity to 2 catch basins off of Gaylord Street. He described the existing (stone walls) and proposed erosion control measures. He stated that mats for cleaning tires will be installed on the driveway.

Mr. Donahue asked where the concrete trucks washing area will be located. Mr. Grenier stated that he believed the logical area for them would be in the front area of the site with a small sump area.

Mr. Grenier stated that the basements will be the walk-out types with concrete floors.

Upon a motion by Mr. Donahue and seconded by Mr. Berg Powers, the Commission voted 6-0 to close the Public Hearing. Discussion regarding issuance of Order of Conditions was held to the end of the meeting.

List of the Exhibits:

Exhibit A: Notice of Intent Application for 6-8 Gaylord Street; prepared by 3333 Inc.; received April 11, 2012.

Exhibit B: Definitive Site Plan for 6-8 Gaylord Street; prepared by J.M Grenier Associates, Inc.; dated March 21, 2012.

Exhibit C: Memorandum from Department of Public Works to Conservation Commission; re: 6-8 Gaylord Street - NOI; dated April 30, 2012.

4. **1127 Grafton Street (CC-2012-012): Notice of Intent:** Anthony Bianco of LGN LLC, the applicant, stated that he purchased this property for his son and that he started backfilling a portion of the backyard to make it more usable. He stated that this work would reduce the water velocity flowing from the backyard to the wetland. Mr. Berg Powers expressed concern with the project beginning without approvals from the Commission and the pitch of the backyard.

John Bensley of Beals & Thomas, Inc. stated that he was hired by an abutter of the project of 1135 Grafton Street. He stated that the work on site appears to be substantially under way and that he observed an excavator on site. He stated that the entire lot has been disturbed including now exposed earth on his client's property in the north-western corner.

Mr. Bianco stated that he obtained permits for gutting the house from the Inspectional Services Department and a sewer connection permit from the Sewer Department.

Mr. Gervais recommended that the owner installs erosion and sedimentation controls as soon as possible.

Mr. Bianco stated that he has blocks delivered to his property to construct a wall in the rear of the property. He stated that his neighbor's property at 1135 Grafton Street is 6-ft away from his property line and that the work done was necessary in order to grade the lot.

Chair Wood requested that Ms. Zhaurova coordinated a site visit with the Commissioners by the end of the week the latest and suggested that the hearing is continued to May 21, 2012. Mr. Bianco was amenable to the continuation. Chair Wood stated that she will do a site walk the next day.

Mr. Donahue expressed frustration with the fact that Mr. Bianco started doing the work before getting approvals from the Conservation Commission while knowing there would be a trigger for the Commission's review due to the presence of wetlands in the rear. He stated that this type of activity jeopardizes the wetlands.

Upon a motion by Mr. Theerman and seconded by Mr. Franco, the Commission voted 5-1 (with Mr. Donahue voting no) to continue the hearing to May 21, 2012.

List of the Exhibits:

Exhibit A: Notice of Intent Application for 1127 Grafton Street; prepared by Nancy Bianco of LGN LLC; received April 11, 2012.

Exhibit B: Building Plot Plan for 1127 Grafton Street; prepared by James B. Kalloch; received April 11, 2012.

Exhibit C: Memorandum from Department of Public Works to Conservation Commission; re: 1127 Grafton Street - NOI; dated April 30, 2012.

Public Meeting

5. **Route 9 (Kenneth F. Burns Memorial) Bridge over Lake Quinsigamond (CC-2012-013):** Frederick Moseley of Fay, Spofford, & Thorndike, LLC, representative for MassDOT, the applicant, stated that the applicant has applied for a Request for Determination of Applicability to perform approximately 30 borings (12 of them in the lake) to obtain and evaluate information on the soils and bedrock in potential locations of proposed bridge's piers and abutments. He stated that structural borings will be 100-150' below the mud line in the lake, and 20-25' deep along the street. He stated that water borings will take about 3 weeks to complete. Mr. Moseley stated that lake will be accessed via state boat ramp on Shrewsbury town side and that the equipment will be tied at night at the Regatta Park. He stated that the applicant is looking to start work mid-May. Chair Wood suggested the applicant inform the Lake Quinsigamond Commission of the project.

Upon a motion by Mr. Theerman and seconded by Mr. Franco, the Commission issued a negative Determination of Applicability for Route 9 (Kenneth F. Burns Memorial) Bridge over Lake Quinsigamond (CC-2012-013).

List of the Exhibits:

Exhibit A: Request for Determination of Applicability Application for Route 9 (Kenneth F. Burns Memorial) Bridge over Lake Quinsigamond; prepared by Jessica Kenny of MassDOT; received April 11, 2012.

Exhibit B: Memorandum from Department of Public Works to Conservation Commission; re: Route 9 over Lake Quinsigamond - RDA; dated April 30, 2012.

Public Hearing

6. **121 Russell Street (Elm Park) (CC-2012-014):** David J. LaPointe of RLA and Cesar Valiente of DPW&P represented, represented Department of Public Works & Parks, the applicant. Mr. LaPointe stated that the City has received a grant to do renovation, maintenance, and safety improvement work in Elm Park. Phase 1 area, adjacent to the playground area, is the focus of the filing.

Mr. LaPointe stated that the applicant has applied for a Notice of Intent seeking to 1) Pave existing gravel paths and make them handicapped accessible; 2) Replace existing benches and light poles; 3) Remove and replace existing electrical conduit; 4) Replace woodchips in the playground area with rubber surfacing; 5) Install concrete walks around the playground area; 6) Repair stone walls surrounding the ponds and remove accumulated sediment within the pond adjacent to the shoreline.

Chair Wood clarified that the proposed work does not include dredging, but repair of stone walls. Mr. LaPointe confirmed that.

Mr. LaPointe stated that the pathways will be minimum 10-ft wide to allow for maintenance vehicles access, and that they would be thinner in some places than the current width.

Chair Wood confirmed that the areas adjacent to the pond will not be hydroseeded. Mr. LaPointe stated that those areas will have top soil added and seeded.

Mr. Berg Powers encouraged signage regarding keeping distance to the waterways, not throwing trash, and not feeding geese.

Mr. LaPointe clarified that all the walkways and all the lighting at the Park are proposed to be replaced as shown on the plans, and not just in the area next to the playground (Phase 1). Mr. Valiente stated that he was not sure if there will be funding available for Phase 2. He stated that the work will take place July 1, 2012-June 30, 2013. Mr. LaPointe stated that only areas disturbed as a result of proposed work will be re-stabilized.

Deb Cary of MassAudubon and a member of the City of Worcester Elm Park Task Force, was concerned with the proposal to increase the impervious surface and asked how the drainage will be managed. She suggested that pervious materials be used instead. Chair Wood stated that she is amenable to the proposal in Phase 1 area for safety concerns, but shared Ms. Cary's concerns with increase in impervious areas in other parts of the park.

Mr. LaPointe stated that paving materials have not been determined yet, but stated that some options include concrete or stamped bituminous surface. He stated that there is a maintenance concern with permeable surfaces, which can be clogged with silt and sand, and that vacuum cleaners would be need to clean permeable pores.

Jo Hart expressed opposition to "concrete ribbons" of pavement in the park and recommended using flagstones instead. She expressed opposition to any tree removal and recommended that the City established a tree committee that would review tree removals in the City. Mr. Hart asked why the playground needs to be redone. Mr. LaPointe stated that the proposed rubber material of the playground would meet current safety criteria and would reduce maintenance costs.

Mr. Berg Powers encouraged the applicant to outreach to and meet with the neighborhood prior to the work commencing. He recommended that the trees to be removed are replaced. He stated that he will be abstaining from voting on this petition due proximity of his home to Elm Park.

Mr. Franco suggested that all trees to be removed are replaced in kind.

Chair Wood stated that she would be amenable to approving Phase 1 scope of work only with the exception of lighting.

Upon a motion by Mr. Franco and seconded by Ms. McDonald, the Commission voted 5-0-1 (with Mr. Berg Powers abstaining) to close the Public Hearing for Phase 1 of the project. Discussion regarding issuance of Order of Conditions was held to the end of the meeting.

List of the Exhibits:

Exhibit A: Notice of Intent Application for 121 Russell Street (Elm Park); prepared by Robert Antonelli of City of Worcester Department of Public Works & Parks; received April 11, 2012.

Exhibit B: Elm Park Improvement Plan; prepared by Beals & Thomas, Inc; dated April 11, 2012.

Exhibit C: Memorandum from Department of Public Works to Conservation Commission; re: 121 Russell Street - NOI; dated April 30, 2012.

Commissioner Franco left the meeting.

7. **190 Belmont Street - Bell Pond Park (MBL 16-015-0009A) (CC-2012-015):** Jonathan Gervais of DPW&P, stated that DPW&P applied for a Notice of Intent seeking to perform stormwater upgrades at the Bell Pond Park beach area to improve erosion condition currently degrading the park/beach by constructing a water quality swale, replacing ~1,700 SF of concrete walkway with porous concrete paving, and revitalizing the beach by replacing sand. He stated that this work will help DPW&P assess functioning of different low impact development techniques using Stormwater Management Standards, and that DPW&P is planning to complete the work by the opening season.

Deb Cary of Mass Audubon expressed support for the project.

Upon a motion by Mr. Donahue and seconded by Mr. Berg Powers, the Commission voted 5-0 to close the Public Hearing. Discussion regarding issuance of Order of Conditions was held to the end of the meeting.

List of the Exhibits:

Exhibit A: Notice of Intent Application for 190 Belmont Street (Bell Pond Park); prepared by Paul Moosey of City of Worcester Department of Public Works & Parks; received April 12, 2012.

Exhibit B: Proposed Bell Pond Beach Improvements; prepared by City of Worcester Department of Public Works & Parks; dated January 25, 2012.

OTHER BUSINESS

8. **God's Acre Parcel – Worcester Greater Land Trust's Proposal:** Ms. Zhaurova stated that Mr. Novick requested a continuation of this item to May 21, 2012. The Commission continued the item to May 21, 2012.
9. **Enforcement Order Update - 1121 Grafton Street – (CC-2006-088):** Louis Bianco, on behalf of Anthony Bianco, was present. He provided a copy of a FloGard quote for catch basin silt sacks that he obtained and stated that he purchased three of them.

Commissioner Donahue recused himself.

Ms. McDonald indicated that she is amenable to Mr. Bianco installing the silt sacks and to wait for the data on the performance of the Stormceptor unit. Ms. McDonald stated that the Commission does not regard silt sacks as a permanent solution.

Mr. Theerman stated that his position did not change and that he would vote for taking further action to enforce the Order by referring the matter to the Law Department.

Mr. Berg Powers stated that he wants the problem fixed and that he is frustrated with the lack of progress on the matter, but that for now he is inclined to accept the silt sacks as a temporary solution while the Commission is waiting for test results on the water treatment unit.

Mr. Bianco stated that Roosevelt School and WPI have installed water treatment units identical to the one on his property. Chair Wood stated that conditions on those sites might have been different and the Commission have not reviewed those units.

After reviewing approved plans for the site, Mr. Gervais confirmed that there are 3 catch-basins on site that will need three silt sacks.

Chair Wood stated that she would be satisfied with temporary silt sacks as long as the Commission receives monthly updates from the testing company regarding testing results. Ms. McDonald stated that she would also like to see monthly updates about installations, inspection and maintenance of the catch basin silt sacks.

Chair Wood stated that she believed the next 4 months of data would give the Commission a sense as to whether or not the water treatment unit would pass the test.

Upon a motion by Mr. Theerman and seconded by Ms. McDonald, the Commission voted 1-3 to refer the matter to the Law Department as a result of exhausting all reasonable options of obtaining compliance from the owner. The motion failed.

Chair Wood requested that Mr. Bianco install the silt sacks as soon as they arrive; that he give status update to Mr. Gervais next week regarding installation of the silt sacks; that he be present at the next meeting on May 21, 2012; and that he provide the Commission with monthly updates about ongoing testing of the existing water quality unit.

List of Exhibits:

Exhibit A: Flo-Gard PLUS Catch Basin Insert (FGP-24F) Quote from Jessica Robins to Nancy Bianco; dated 4/27/2012.

10. **Enforcement Order - 187 Greenwood Street (CC-EO-2012-001):** Mr. Gervais stated that he has no updates on the project. Ms. Zhaurova stated that her office did not receive a filing for a Notice of Intent. Chair Wood requested that Mr. Gervais inspect the site before the next meeting.

11. **25 Ellis Drive – Informal discussion / potential for an Enforcement Order:** Ms. Zhaurova stated that the Enforcement Order was sent to Mr. Georgiadis on April 25, 2012 requesting his presence at the meeting. She stated that the letter stated that Mr. Georgiadis contact the office in case he cannot attend, but that she has not heard back from him. Ms. Zhaurova distributed staff's memo to the Commission with recommendations for next steps which included:

- 1) Issue a new Enforcement Order reaffirming the Commission's 2009 enforcement order (given a comparatively new make-up of the Board) and setting out a new timeline for compliance.
- 2) If compliance is not achieved to the satisfaction of the Commission within the time period specified, the Commission may choose to pursue the following enforcement mechanisms to achieve compliance with the Order of Conditions:
 - a. Noncriminal Disposition Ticketing – Assess a fine/s of up to \$100/violation for violation of the City's General Revised Ordinance - Wetland Ordinance & Regulation¹;
 - b. Worcester Wetlands Protection Ordinance - Assess a fine/s for violation of the Wetlands Protection Ordinance² (up to \$300/violation³); and/or
 - c. Wetlands Protection Act - Requesting that the Law Department seek a court order directing the applicant to comply with the Enforcement Order and/or seek fines under the state Wetlands Protection Act, M.G.L. c. 131, § 40.

Mr. Theerman was amenable to the recommendation and suggested the new Enforcement Order is served by Constable, instead of sending it certified mail. Chair Wood asked that an old Enforcement Order is attached to the new one.

Upon a motion by Ms. McDonald and seconded by Mr. Theerman, the Commission voted 5-0 to issue a new Enforcement Order reaffirming the Commission's 2009 enforcement order and requesting compliance within 30 days of receipt of the order.

List of Exhibits:

Exhibit A: Memorandum from Joel Fontane of Planning & Regulatory Services to Conservation Commission; re: 25 Ellis Drive – 2009 Enforcement Order (WCC File # 2001-064, DEP File # 349-459 & 349-360); dated April 30, 2012.

¹ City's General Revised Ordinances Part I, Chapter 15 - Fines & Penalties § 2. Non-Criminal Disposition b) (17) Wetland Ordinance & Regulations – R.O. c. 6

² Authorized under M.G.L. c.40 sec 21D.

³ Wetlands Protection Ordinance, Section 13(E): "(e) Any person who violates any provision of this chapter, regulations thereof, or permits issued thereunder, shall be punished by a fine of not more than three hundred dollars (\$300). Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of this chapter, regulations, or permit violated shall constitute a separate offense."

12. **Enforcement Order - 126 Sears Island Drive (CC-EO-2012-002):** Mr. Gervais informed the Commission that the owner dredged a cove resulting in about 80 lineal feet of bank alteration and is now working to restore it to the original conditions under supervision of Department of Environmental Protection. He stated that he will issue a local Enforcement Order for the record following the Chair's request.
13. **Enforcement Order - 2 Woodcliffe Ave (CC-EO-2012-003):** Mr. Gervais informed the Commission that he will issue an Enforcement Order for the grading and filling work done in the resource buffer area, and potential resource area. He stated that he conducted a site visit after being informed of a possible violation by the Sewer Department which has an easement on the property.
14. **Discussion & Issuance of Orders of Conditions as relevant to a hearing closed 4/30/2012:** After discussion, upon a motion by Mr. Theerman and seconded by Mr. Berg Powers, the Commission voted 5-0 to Issue Order of Conditions for the following projects:
- 80 Dawson Road (MBL 54-002-00001)
 - Nelson Place adjacent to 62, 64 & 74 Nelson Place parcels (CC-2012-010)
 - 6-8 Gaylord Street (CC-2012-011)
 - 190 Belmont Street - Bell Pond Park (MBL 16-015-0009A) (CC-2012-015)

After discussion, upon a motion by Mr. Theerman and seconded by Mr. Berg Powers, the Commission voted 4-0-1 (with Mr. Berg Powers abstaining) to Issue Order of Conditions for the following project:

- 121 Russell Street (Elm Park) (CC-2012-014)

15. Received Communication:

- a. Department of Environmental Protection; re: Request for Extension of Time, Worcester – Lot 4-10 Salisbury Street DEP # 349-1023; dated April 4, 2012;
- b. Thompson-Liston Associations, Inc. to Department of Environmental Protection; re: Response to Geosyntec Consultants Technical Memorandum, Lots 4-10 Salisbury Street, Worcester, MA; dated April 12, 2012.
- c. TecAssociates; re: Providence & Worcester Railroad Company – 2012 Vegetation Control Program; dated April 9, 2012;
- d. National Grid; re: Information on National Grid's approved Yearly Operational Plan; dated April 13, 2012;
- e. National Grid; re: Information on National Grid's approved Yearly Operational Plan with a map of an area of follow-up treatment; dated April 13, 2012;
- f. Invitation from Broad Meadow Brook Wildlife Sanctuary for "Time to Celebrate" event on Saturday April 28, 2012.
- g. Mass Department of Transportation 2012 Yearly Operational Plan for the proposed herbicide application

The Commission did not take any action on received Communications.

ADJOURNMENT

Upon a motion by Mr. Berg Powers and seconded by Mr. Theerman, the Commission voted 5-0 to adjourn the meeting at 8:50 pm.