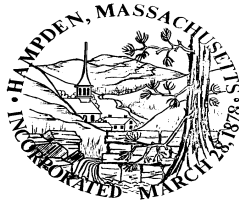


# TOWN OF HAMPDEN MASSACHUSETTS

Town House  
625 Main Street  
Hampden, MA 01036

Phone 413-566-2151 Ext. 110  
Fax: 413-566-3513  
e-mail [conservation@hampden.org](mailto:conservation@hampden.org)



**Conservation Commission**  
Bonnie Geromini  
Judy McKinley Brewer  
Philip Grant  
Ted Zebert  
Andrew Netherwood  
Tim Hanley  
Kelly McCormick, Admin. Asst

## HAMPDEN CONSERVATION COMMISSION Meeting Minutes May 15, 2019 Town House

Members Present: Bonnie Geromini, Chair, Judy McKinley-Brewer, Ted Zebert, Andrew Netherwood & Tim Hanley

Members Absent: Phil Grant

The meeting was called to order at 7:00pm.

### Agenda Items:

#### **7:00pm Geoffrey Rockwell – Rockwell Pond Dredging**

Nat Arai and Robin Casioppo of GZA GeoEnvironmental Inc., appeared before the Board on this matter. Mr. Arai began by reviewing that about a month ago they came before the Commission regarding their filing for the dredging of Rockwell Pond. He stated that Mark Stinson from the MA DEP was present at the last meeting and they have since gone through all of his comments on the proposed project. Judy stated that at the last meeting they were still waiting to receive the response from NHESP with their determination. Mr. Anai stated that it had been received and informed the Commission that the NHESP determination basically stated that their conditions are similar to the Wetlands Protection Act, except for the turtle protection. Judy informed Mr. Anai that the Commission must receive submittal of the NHESP determination with their conditions as those conditions will be included in the Order of Conditions.

Mr. Anai stated that he had received emails from NHESP with questions regarding the wording used in the Notice of Intent narrative. He rewrote it and sent it back but informed the Commission that he thinks the person was unclear with the sediment reuse area and the area NHESP wanted to designate as a potential turtle nesting area. Mr. Anai stated that it was clearly shown in the plans submitted with the Notice of Intent. The Commission took a moment to review the plans.

At the last meeting, Mr. Stinson had asked if they were looking for a 3 year or 5 year period. Mr. Anai stated that it is their understanding that a 3 year period is the maximum they can ask for and that a 5 year period is only for maintenance. Regardless, his client does not need more than 3 years. Tim asked if they were still waiting on the 401 Water Quality Certification. Mr. Anai responded that they have been corresponding with the 401 Water Quality Certification and Mr. Stinson, as well as the dredge reviewer from the DEP in Boston. He provided the Commission with a printed copy of the emails between them which states that the Commission issuing an Order of conditions before the Water Quality Certification is not a requirement, but a recommendation. He explained that Boston's protocol is to receive the Order of conditions first as part of their review.

Judy reviewed the list of conditions that she had thus far. All of the NHESP conditions will be included in the Conservation Commission's conditions; The commission will ask for a separate Notice of Intent for annual draw-downs; The applicant is not to start any work until they have the 401 Water Quality Certification in hand. Judy stated that she had a quotation from the last meeting that Mr. Stinson had asked about an intended stay for wildlife habitat. Mr. Anai stated that they had performed a wildlife habitat assessment for the whole site because of the rare species. Ms. Casioppo informed the Commission that Appendix A is a 2 page document and that they could quickly complete it and submit it to the Commission. Judy continued with the conditions stating that the fish caught during the watering will be preserved and there will be maximum attention to silt because it is a cold water fishery. Mr. Anai stated that if they are trout, they can be moved to travel upstream. He also mentioned that there is a broken dam

about 100 ft. up to the pond which may have been part of a trout operation many years ago. If they were to move them, it would be farther up to the appropriate location. Judy continued that the applicant would need to control migrative invasive species. Mr. Anai stated that in general they do not think they have any issues with the aquatic environment. He informed the Commission that they are also going to restore all of the disturbed areas outside of the pond which is basically just a strip of lawn next to the dam where they're going to come down in and out of the pond. Judy stated that copies of the recorded Orders of Conditions and the 401 Water Quality Certification go to NHESP. The Conservation office will mail a copy of the Orders of Conditions to the 401 Water Quality Certification Office as well as the dredge reviewer from DEP in Boston. The Commission is also requesting a copy of the Water Quality Certification once it is issued. Judy clarified that in total, there are 8 conditions. This includes NHESP's conditions and Mr. Stinson's conditions.

Judy recalled discussing at the last meeting the months that they would be able to perform the work to prevent disturbing the turtles. Mr. Anai stated that he had spoken to the biologist who is doing all of the assessment work and has been working with NHESP. The biologist informed him that the pond has to be drained to the elevation intended before October 15<sup>th</sup>. Draw-downs have to be done between April 15<sup>th</sup> and October 15<sup>th</sup>. In early April the turtles are still in the pond, so they are waiting so they do not disturb them. Dredging can continue into the fall and winter if necessary. It takes approximately 1-2 months depending on the rain. Mr. Anai informed the Commission that they do not want to have their machines out there in the winter as ice is an issue. It can however be favorable for the work as it freezes the sediment. He stated that they will be monitoring the turtles as ordered in the turtle protection plan.

Andrew asked if the equipment would be staying out in the rain. Mr. Anai replied that the contractor has to monitor weather conditions and look at the forecasts each day. They must also be prepared to get all of the equipment out if it is predicted that we will receive a certain amount of rain. Ted asked if they will also be monitoring the equipment for any oil or gas spills. Mr. Anai stated that they can pull the equipment back every night and will monitor it for leaks such as hydraulic oil. Judy stated that the machinery will have to be moved a minimum of 50 ft. away from the resource area and they must monitor the equipment for leakage and weather involvement.

Bonnie made a motion to issue the Order of Conditions for DEP #173-0222. Ted second the motion. All were in favor.

#### **7:30pm Ryan Morton – Parcel 8-2-4 South Rd.**

The applicant, Ryan Morton appeared before the board on this matter. Also present was the applicant's consultant, Heather Comee, of Wetland Consultants, Inc. Ms. Comee reviewed that they had come before the Commission on April 17<sup>th</sup> and had gone through the proposed project. She informed the Commission that they had received DEP's comments after the last public hearing. DEP's comments suggested that they file the replication checklist because there is wetland replication proposed. Ms. Comee did go through the entire checklist and referred to the page in her addendum that it refers to. She based her report off of the wetland replication guidelines.

Ted stated that he did complete a site visit but was unable to attend the last meeting in April. Ms. Comee offered to provide a brief summary of the proposed work. Mr. Morton had filed a Notice of Intent for the construction of a single-family home. The upland portion of the site is too small for a single-family home. They had proposed a driveway at the narrowest point in the wetlands which would result in just under 5,000 sq. ft. of alteration. Ms. Comee clarified that it would be 4,493 sq. ft. of alteration. This area is located within NHESP priority and estimated habitat. In a portion of the DEP comments, Mark Stinson suggests waiting for receive the NHESP comments. They did receive the comments that it is within the natural habitat of box turtles but as proposed will not adversely affect the habitat and an Order of Conditions can be issued for the project. The condition is to complete a turtle protection plan. Ms. Comee informed the Commission that they already have a contract proposal from Steve Riberty of GZA GeoEnvironmental, Inc., to do the turtle protection plan. Mr. Riberty is a herpetologist who does a lot of the turtle protection plans and rare species habitat assessments; he also lives in this area. In terms of NHESP, they are all set. All they need to complete is the turtle protection plan.

The Commission and Ms. Comee briefly discussed the bank measurements, which is something Mr. Stinson had asked about at the last meeting. Ted asked if Mr. Stinson was concerned about the replication area not being big enough. Andrew informed him that he was not concerned about the replication area, he just wanted to make sure that was the narrowest point and that they were going to use the least impactful area. Ms. Comee explained that it has to be 1.2 times the full bank width. They have proposed a 13 ft. wide crossing, which more than meets the bank full width requirement. Ted asked what they were using for materials. Ms. Comee stated that it would be corrugated metal, shaped kind of like an arc that goes into footings on either side with a rock wall on top of that. Judy asked about the replication area being hayed and if they would continue to mow it. Ms. Comee replied that yes, it may be

hayed and will continued to be mowed. She informed the Commission that as long as it is well established it will continue to grow, even if you mow it. Bonnie asked what the purpose was in haying it. Ms. Comee stated that the hay is sold and that there is not a lot of habitat there including wet meadow habitat or field habitat. The meadow is 25 ft. on the edge of the wetlands. Ted asked for clarification that everything would be the same except for clearing that one spot and then haying it periodically. Ms. Comee stated yes that was the only impact being proposed to the area under their jurisdiction.

Ms. Comee stated that at the last meeting the Commission has asked if the prospective homeowners could be here and that they are in fact present tonight. Bonnie asked the prospective owners if they had any questions. They stated they did not but were just absorbing all of the information. Ted asked if they were local and if they were aware that there are many rules and regulations for the riverfront. He explained that even though this is a tiny brook, it is still considered riverfront. The prospective owners said that yes, they were aware of these things. Ms. Comee and the Commission reviewed several concerns they could have, including staying within the limit of work line. Bonnie informed the prospective owners that the Order of conditions must be recorded at the Registry of Deeds. Judy also informed them that once the work is done, they will need to get ordered a Certificate of Compliance stating that all of the orders were met. Judy added that they are counting quite a bit on the natural stop coming out, so it needs to say that the replication area was actually effective. Ted informed the couple that while the work is going on, the Commission has permission to go out to the property to make sure their contractor is not bulldozing into the wetlands, or anything of that nature. Just also mentioned that this is an important stream because onward is a cold water fishery. Tim stated that the boundary markers cannot be removed. Judy stated that when they actually go to start building, the Conservation commission will ask for a pre-construction meeting so they can speak to the contractors and make sure they are aware of the rules and regulations. The Commission then reviewed things that will be required and included in the conditions such as silt barriers needing to be installed, monitoring fluid spillage from the equipment, moving machinery from the resource area and removing the dirt that is dug up to prevent it from going into the wetlands if it rains.

Bonnie made a motion to issue an Order of Conditions for DEP #173-0223. Andrew second the motion. All were in favor. Bonnie made a motion to close the hearing on this matter. Andrew second the motion. All were in favor.

#### **Tom Speight – Discussion regarding Lot #22 Kibbe Lane**

Mr. Speight informed the Commission that they currently have this lot under contract for sale and there is an expired Order of Conditions on this site. They are hoping to get a Certificate of Compliance before the end of the summer. The buyer had asked about the expired Order of conditions however there are no wetlands on this particular lot. Mr. Speight stated that he was looking for guidance on how to address this situation.

Bonnie stated that she has pulled up the mapping from when the notice of Intent was originally filed with the Commission. It did not appear that Lot #22 was in their jurisdiction. Judy stated that they would not have to submit a Notice of Intent, only a Request for Determination of Applicability. That way a negative determination could be issued to clear that lot. Judy then reviewed her list of all of the properties in the development that will require a Notice of Intent. These lots include #2, #3, #5, #6, #7, #8, #9, #11, #13 and #14. Mr. Speight confirmed that he has the same list.

The Commission informed Mr. Speight that they would be willing to hold a Special Meeting on Wednesday, June 5, 2019.

#### **Eversource – Discussion regarding mitigation on South Branch Mill Rd.**

Andrew recused himself from this matter.

Simon Hildt of Eversource Energy appeared before the board representing Eversource in an informal discussion. He clarified that no paperwork has been filed yet with the Commission. Mr. Hildt stated that the proposed project involves replacement of the wooden structures along the 3419 transmission line which crosses through Ludlow to Wilbraham and into Hampden. For part of that work, they will need to use rather large equipment as required for changing out wooden poled to steel poles. This equipment includes cranes and bucket trucks.

There's a location right off of East Longmeadow Rd. on that right of way where they are proposing to improve the access to a permanent gravel access road. It is currently a farm access with a couple of makeshift wetland crossing pallets. Mr. Hildt explained that they are proposing to use construction mass to bridge the wetland crossing but in uplands within the buffer zone and riverfront area to cross the brook and construct a 5,000 ft. access road within riverfront area. They had discussed this with the Commission, who was kind enough to offer suggestions for

potential mitigation. One suggestion was to control the invasive species. Barberry was the main species of concern on Minnechaug mountain along the Scantic. Mr. Hildt informed the Commission that he had gone out there himself to look at them and while it was doable, it certainly involved access from uphill vehicles.

Mr. Hildt stated that he had recently had discussions with the MA DEP regarding other mitigation needs. They had urged him not to pursue the invasive species management as mitigation due to how long it takes to gage whether or not it is successful since invasives are so good at what they do. Mr. Hildt informed the Commission that they were hoping to find somethings within their rights of access. He located an area on Stony Hill Rd. which is part of their project area. He provided photos of a crossing over the south branch of the Mill River. Ted stated that one was originally a boy scout project. Mr. Hildt replied that there are also some pretty robust ATV trails. The crossing is greater than 100 linear feet and based on the condition of it, does not appear to be used any longer. It looks to be constructed out of pallets and random lumber. In the uplands there is a trail leading through the riverfront area where the ATV traffic has essentially carved out a hole through the slope leading down into the wetlands. Mr. Hildt provided the Commission with photos of the area.

They are proposing to remove all of the debris which is somewhat obstructing the channel of the sub branch and is definitely covering a fair amount of the Bordering Vegetative Wetlands as well They will plan to remove the debris by hand and restore the channel. They would also like to spread some new wetland mix on the BVW area. In addition to removing this, they would also propose to replace the soil and re-plant the entire area with native shrubs. Mr. Hildt informed the Commission that there is a big thicket of American hazelnut there. They would only use species that are conducive to that area. He reviewed the areas of the approximate limit of debris removal, the approximate limit of plantings and where the trail is located where they would be replacing the soil. Mr. Hildt stated that they would replant it to replace the existing shrub thickets to extend all the way across the right of way and place big boulders to protect it while the shrubs are getting established. They would also make a line of boulders from the tree line to the shrubs to prevent ATV's from going through. Mr. Hildt stated that he will complete another site visit, but they will likely place more boulders on the other side of the river to discourage ATV riders from going to that area.

Mr. Hildt mentioned that this area is a habitat for an endangered amphibian and reptile and NHESP has informed them that both species like that habitat of thicket and shrubs. The proposed work of replacing the poles will be completed between December 1<sup>st</sup> and February 28<sup>th</sup> which is the dormant season for these two species. They will be deep underground at that time and will not be affected by the work.

The removal of debris and replacing of the soil requires the use of machines. They would need to come back afterwards to do the planting by hand. NHESP informed them that they cannot use machines to do the planting because of the species and that they will need to retain a wildlife biologist to oversee the planting work.

Bonnie reiterated that Mr. Hildt came in tonight for discussion only and that no paperwork has been filed yet. The Commission members informed Mr. Hildt that they liked this mitigation plan. Mr. Hildt informed the board that this project is also going through Wilbraham and Ludlow so they will likely be submitting a Notice of Intent in early July.

#### **8:00pm MECO – Installation of a pole at 160 Mill Rd.**

Bonnie stated that the BSC Group has requested a Certificate of Compliance for the installation of a pole at 160 Mill Rd. The Commission had completed a site visit and found that the orders were met to their satisfaction. The applicant was informed that they did not have to be here in person, instead the Commission could mail out the paperwork to them once signed.

Bonnie made a motion to issue a Certificate of Compliance. Andrew second the motion. All were in favor.

#### **8:15pm Borrego Solar, LLC – Signatures for Order of Conditions**

informed the other members that the Commission had issued an Order of Conditions on this project at the previous meeting however the Orders were not dated, therefore they were not valid. The Commission prepared a dated copy of the Order of Conditions to sign at tonight's meeting.

The meeting was adjourned at 8:47pm.

Respectfully Submitted,  
Kelly McCormick

*Accepted: 7/17/2019*