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## TOWN OF HAMPDEN MASSACHUSETTS



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

### HAMPDEN CONSERVATION COMMISSION Meeting Minutes April 17, 2019 Town House

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

Members Absent: Ted Zebert

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

Bonnie informed the public that Mark Stinson, our circuit rider for the Mass DEP is present for tonight's meeting.

#### Agenda Items:

#### **7:00pm Boulder Hill Construction, LLC – Lot #24 Ridge Rd.**

Bonnie stated that Boulder Hill Construction has submitted a Declaration of Conservation Restriction for the Commission to review. Mr. Joe Dasco of Boulder Hill Construction, LLC appeared before the board on this matter. The Commission reviewed the mitigation areas on the plan that were submitted dated February 11, 2019. Bonnie informed Ms. Dasco that he will need to submit a copy of the restriction once it has been signed and notarized.

Judy made a motion to accept the Conservation Restriction attached to Plan A, the Notice of Intent plan for Lot #24 Ridge Rd. Phil second the motion. All were in favor.

#### **7:15pm Geoffrey Rockwell – Rockwell Pond Dredging**

Nat Anai and Robin Casioppo of GZA GeoEnvironmental Inc., appeared before the Board on this matter. Mr. Anai informed the board that he is an engineer at GZA Environmental, and Ms. Casioppo is an environmental scientist.

They are here representing the applicant, Geoffrey Rockwell and family, the owners of May Stone Farm on Rock A Dundee Rd. They are proposing to dredge Rockwell Pond, which is fully on their property. Mr. Anai informed the board that they were supposed to be joined tonight by Steve Riberty, a wildlife biologist that has done all of the assessment for habitat and rare species on the property. Mr. Riberty has been coordinating with NHESP, however NHESP has not yet responded to the Notice of Intent filing. Mr. Anai stated that they are aware that the Commission will likely have to continue the meeting until the determination and conditions have been received from NHESP but is still prepared to give the presentation on the proposed project tonight.

Mr. Anai presented a plan depicting the Rockwell Pond and the property located on Rock A Dundee Rd. He stated that the entire property is classified under Chapter 61A and the applicant manages the forest

through the Chapter 61 provisions. The pond itself is about 3.2 – 3.3 acres of open water area. The Rock A Dundee Brook flows into it from the south and it all passes out through the Scantic River from the east flowing into the northwest. The entire pond open water area is about 135,000 – 136,000 sq. ft., but the entire resource area within the pond which includes the vegetative plants and the river is about 145,000 sq. ft. In fall of 2016, they had conducted symmetry surveys measuring the top sediment probing to get the bottom sediment. Later in the spring of 2017, they conducted their first set of sediment sampling and then returned after some negotiation with Mass DEP in Boston 401 Water Quality Certification Program. They conducted some additional sampling and knew early on that some of the property was under NHESP. They learned that the property was a habitat for wood turtles and the eastern box turtle. They had reached out to NHESP to coordinate with them and NHESP requested that they complete a habitat assessment. Their primary focus was on the wood turtle, because of the suitability of habitat for them. They found that the field to the north of the farm building was a good habitat for them as well as the wooded perimeter. They also determined that the vegetative sandbars were probably seasonable foraging habitat for them. Mr. Anai stated that the habitat assessment has been included in the Notice of Intent filing.

They filed for the 401 Water Quality Certification with the Mass DEP in Boston about 3 weeks ago. There were several samples taken that were very clean. They had a very low concentration of a few hydrocarbons and a few trace metals; silver was one of them. They did their due diligence for the 401 Water Quality Certification and applied for a dredge permit. They have determined that it is very clean, very rural watershed, and they were hoping to get away with telling the applicants, the Rockwells, that they could dispose of the materials on their land, but that's very hard to do if you find a trace of materials in the water quality sample because there is a risk associated with it. This is why they did a preliminary round of sampling. The reviewer at the time said it would be okay if they passed certain standards but there were a few things that did not pass.

Wetlands were delineated around the pond, mainly on the northeastern shore area. They did not delineate the other areas since they noticed no disturbance of access anywhere else on the pond. They found that there is around 20,500 cubic yards of material, closer to 30,000 if including the sandbars. Mr. Anai explained that the original intent was to dredge the sandbars as well but after their initial habitat assessment, they found there was potential foraging for the wood turtles and were asked to avoid dredging those out. He presented the Commission with a cross section indicating where all of the sediment they found is located. There is a portion of vegetated sediment in the sandbar that will remain undredged.

To dredge the pond there are a couple of options. They can either dredge it hydraulically or using conventional excavation equipment. For hydraulic dredging, you would either need to build a basin to pump material into or use an expensive mechanical process including geotubes to dewater the material. Mr. Anai stated that this process is very expensive. The pond has a working drain and the Rockwells use a slide gate to drain the pond. Mr. Anai informed the board that the Rockwells have maintained the dam quite well, adding that they have done some repairs to it in the last 10 years. Their plan is to initially draw down the pond by the gate to the point before any sediment begins to mobilize through the gate. As soon as there is a sign that any sediment is mobilizing, they will shut the gate and continue to pump water and make sure that they are pumping clear water. When it is low enough, they will have to go in and build a cofferdam using the big fabric sacks full of earthy materials packed in gravel. Access to the pond will be through an existing beach. The access will be across the lawn from their gravel driveway into the pond. The road will be about 12 – 20 feet wide. It will cross the beach about 40 – 50 feet which is all sand.

As they draw it down, they will expect it to move around and they will have to relocate pumps accordingly to divert water over the dam. Mr. Anai presented the board with a drawing showing what the proposed dredge contours will look like when it's done. The average depth internally is a little under 2 feet across the pond and about 4-5 feet at the deepest areas. The average depth will be increased to 5 ½ feet and about 12 feet at the deepest areas. Judy asked Mr. Anai if the way they dredge would change if they decided to do only the upper part. He replied that if they were to not dredge the lower part, he would presume that they would draw a line across and could cut it back a little further vertically.

Mr. Anai stated that the disposal area will be about  $\frac{3}{4}$  of a mile from the driveway into the farm up Rock A Dundee Rd. to an existing area they have already been using since last year. Before they had conducted the habitat assessment, they had talked about disposing into the meadows, but they learned from NHESP that was a good habitat for the wood turtles and they were asked to avoid that area. They moved the disposal area to the cleared area they were already using before and they already have access to. Mr. Anai mentioned that there is a small isolated vegetative wetland area that they will avoid. They plan to create a temporary access stabilizing construction area into the site and then a staging area for parking equipment. They will draw it down and let it sit to drain and draw out for a few weeks. Typically, they will have to pass a filter test the 401 Water Quality Certification. Presumably, they will excavate it, put it right into the truck, and drive it away. Mr. Anai pointed out where the access area would be off of Rock A Dundee Rd. into the disposal area. Mr. Anai stated that this area is approximately 3 -4 acres. They will strip off and push the topsoil off to the side and berm it up, placing silt fence and straw erosion control around the down slope areas of the site. Then they will lay down the sediments and let them continue to dewater. At the request f NHESP, they are going to try to segregate the remaining portion of the sediments as potential nesting habitat for the wood turtle. That will remain as an open sandy area and the rest of the sediment will be buried and covered up with the topsoil that was removed from the site.

Bonnie asked how long it takes from the time that the soil is laid out to continue dewatering until the time it is covered by the topsoil. Mr. Anai stated that if it is dried, it would likely be 2-3 weeks or up to a month. Phil asked if they were panning on planting any supplementary plantings or seedlings. Mr. Anai replied stating that they know they will need to cover it with a seed mix right away to stabilize it. They will talk to the applicants to see whether they would prefer to plant some native oaks or native species there or if they would like to let it revert naturally.

Mr. Anai explained that they will be opening the gate, drawing down the pond to a level where they can install a stone lined pump, and will dig out a hole in the sediment which will allow the water to pool and pump the material over the dam once it gets down to a certain level. Mr. Anai stated that they will be watching them to make sure that mud is not being pumped out and flowed downstream.

Mark Stinson from the Mass DEP informed Mr. Anai that there is a formula to use based on the watershed area. He explained that it is a general formula that Fish and Game came up with on the minimum amount of water that still needs to be sent downstream. They will have to run stream stats and have the watershed area to figure out the minimum standard because you always want to maintain the flow. Mr. Stinson stated that he would send Mr. Anai the formula tomorrow.

Once the water is drawn and the pump diversion is happening, they will go in and clean out the area in front of the low-level pipe and build a cofferdam. Through the remainder of the project, they will have to continue to pump the river flow over the dam. If the flow starts to come in faster than they can pump, they will need to stop and get all of their equipment out of there until the weather clears and things settle down again. That is the overview of the project.

Mr. Anai stated that there were a number of comments received by Mass DEP on the project and that he would be happy to go over them now if possible.

\*There were multiple Order of Conditions open on this property. Certificates of Compliance were never received to know if work was completed properly. One Order of Conditions was from 2011 or 2012 to repair the dam. Mr. Anai stated that the Rockwells had hired Geo Design out of Connecticut who performed some mason repairs to the right side of the dam, and also sleeved the low-level outlet pipe. They also cleaned up the gate to have it seal better because it had been leaking. At that time, they had to do a partial draw-down in order to get to the gate. The other Order of Conditions was from the 1970's. Mr. Stinson stated that those conditions were issued before the Wetland Protection Act regulations came into play in the 1980's.

\*An annual draw-down would require a separate Notice of Intent.

\*To keep the meeting open until the determination and conditions are received from NHESP. Bonnie stated that this is something the Commission always does.

\*To keep the meeting open until the 401 Water Quality Certification makes their determination in case they decide to make any changes. Mr. Anai stated that when they had filed for the 401 Water Quality Certification, they were told that the Order of Conditions was usually provided to them at the same time.

\*This is a cold-water fishery. Mr. Anai stated that they know it is a cold-water fishery and that they will do everything that they can to minimize and prevent sediment flow from going downstream. He stated that this project has an improvement deep in the pond and will actually provide better cold-water habitat for the river

\*Complete a wildlife habitat evaluation. Mr. Anai stated that a partial evaluation has been done, but they will get going on the long wildlife habitat evaluation form that is required.

\*Any fish that are left stranded in the pond should be preserved and relocated. Mr. Stinson stated that he adds this as a recommendation for all dry outs.

\*Invasive species migrating and wandering into the area should be controlled.

\*The dredge permit must be obtained from the 401 Water Quality Certification Program.

Tim asked Mr. Anai about the timeframe for the proposed dredging. Mr. Anai stated that draw-downs have to be done between April 30<sup>th</sup> and October 1<sup>st</sup>. The species will actually hibernate in the pond during the winter months and are still in the pond in early April, so they will wait to make sure they do not disturb them. Tim asked if they planned on doing it this year. Mr. Anai replied that they were originally hoping to do it this year, however that no longer seems possible as they have to wait on the 401 Water Quality Certification.

Bonnie made a motion to issue continue the meeting to May 15, 2019 for DEP #173-0222. Phil second the motion. All were in favor.

Bonnie informed Mr. Anai that they can let the office know 48 hours in advance if they do not have all of the documentation they are waiting on for the May 15<sup>th</sup> meeting, and the Commission can continue it again until the following meeting.

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

Heather Comee, of Wetland Consultants, Inc. appeared before the board on this matter. She stated that she is here to represent the applicant, Ryan Morton, on a Notice of Intent that was filed for the proposed construction of a single-family home on South Rd. She explained that in order to access the upland portion of the property, they would need to cross a wetland. There is just under 4,500 sq. ft. of wetland fill. The property had been delineated and approved by the Commission. Ms. Comee stated that she had delineated the boundary of the bank at the stream crossing to determine the bank full width. There is an intermittent stream going through the wetland area and they are proposing a 13 foot open bottom culvert to avoid bank impact. She presented a map to the board which indicated the location of the wetland area and the intermittent stream. She also pointed out the proposed replication area.

Ms. Comee informed the board that the only portion of the proposed work within the wetland area is the driveway. The proposed house, well and septic system are all outside of the wetland area. She explained that this is the only area that they are able to build the house. The portion in the front is too small and does not meet the setback requirements. During construction, they would come in and install the stream

crossing, remove the wetland that is in the footprint of the driveway, stockpile it on the side, and keep it covered so that all of the plants in there do not die. They would then excavate the replication area down to the subgrade to make sure they had the correct elevation, then the plants being kept on the site would be placed in the replication area. They are mainly meadow plants, grasses and soft brush. In replicating the vegetation, most of it should survive because it is all herbaceous.

This is also located in priority habitat, so they have filed with NHESP. Ms. Comee stated that they have not heard back from them yet, however they did submit their pre-construction plans to get some feedback on their design from NHESP and they had no major concerns. This is a habitat for box turtles. They have also filed with Army Corps of Engineers, but they have not received confirmation yet that they have received it. Ms. Comee informed the Commission that they do not need approval from them, they only have to notify them.

Andrew asked why the replication area could not be dug out first so that the wetland area could be removed from the proposed driveway location and immediately moved to the replication area, versus having them removed and covered up before re-planting them in the replication area. Ms. Comee replied that they could, however the replication area is 500 sq. ft. larger. Because it is a larger size than the wetland fill that is being removed, they will need to be mixed with soil from an outside source. They are proposing compost to increase the amount of soil that is in there. Andrew asked if there was any reason that could not all happen first without having to cover the wetland fill. Ms. Comee stated that as long as you can mix it and put it down that it can be done. Mr. Stinson commented that the Commission could always add that as a condition.

Mr. Stinson stated that he had a couple of questions. He asked Ms. Comee how many locations they used to determine the full bank width. Ms. Comee replied that the surveyors had run it in multiple locations which ranged from 4 – 5 ½ feet. Mr. Stinson asked if he could see the locations that were used on the plan to get the average. Ms. Comee stated that they used the maximum bank full width of 5 ½ feet, not the average. Mr. Stinson asked if there were stream stats done. Ms. Comee stated that stream stats were conducted for the ANRAD that was filed to make sure that the stream was intermittent, and it was determined that it was intermittent. Mr. Stinson stated that one thing he finds with most proposed stream crossings like this is that the Notice of Intent does not describe how the equipment is going to get to the other side. Ms. Comee stated that it was described in the report. A large excavator is going to operate on the side of the crossing. She stated that the stream is not very wide, the footings themselves are only 13 feet in distance from each other. This will allow the excavator to operate from one side to excavate the trenches for the concrete footings and then the arched culvert can be placed on top of that. Mr. Stinson asked if as an alternative option, it may be possible to use one of the abutter's driveways to cross the field. Ms. Comee stated that she believes it can all be handled from that side of the stream as they are currently proposing, without having to ask that of the abutter. Andrew asked to clarify that the cement truck would be able to reach over the stream to pump it over. Ms. Comee replied that was correct, as it is only 13 feet wide. Tim asked if the loam pile was going to disappear from there eventually. Ms. Comee informed the board that the pile is from the material that was taken out of the road, so it is not loam but mostly gravel. Andrew asked about the yard having somewhat of a pitch from the house down towards the stream. He asked if there was anything that should be set up so that the gravel driveway does not wash down into the intermittent stream. Ms. Comee stated that the driveway is probably going to be paved.

Bonnie made a motion to continue this matter to the May 15, 2019 meeting. Andrew second the motion. All were in favor.

Bonnie informed the other members that Mr. Boswiczki was originally scheduled to be here tonight, but he will not be coming in. She stated that the Building Inspector, Wendell Hulbert, had spoken to them about this and according to Mr. Hulbert, that shed was put on grass at least 50 feet away from the river. Bonnie had called Mr. Stinson on this and he stated that it was okay. Bonnie sent Mr. Boswiczki a letter

stating that he would not have to come before the Commission this time, but he would have to come in for approval for any other work within 200 feet of the river.

### **7:45pm Minnechaug Land Trust – Westbrook Project - Phase 2**

Sherry Himmelstein of Minnechaug Land Trust appeared before the board on this matter. She informed the Commission that she is here to update them on the Westbrook project which was originally presented to them about 4 years ago. This is now Westbrook project - phase 2. She explained that the Land Trust has already protected about 23 acres by Memorial Park. The remaining land had been divided into 2 estate lots. The Trust tried to purchase one of the lots. It had been approved at town meeting, and they were working on the funding and had applied for the grant needed. Unfortunately, the owner of the property passed away just before they were able to get the grant. Now the owner's estate has been settled and they are trying again. The current owner is now selling both estate lots as one large parcel. They estimate is to be about \$200,000.

Ms. Himmelstein informed the Commission that they went before the Community Preservation Commission and have gotten their approval. It will be going to town meeting as town conservation land and they will need the Commission's signature since they are the ones who oversee all of the town Conservation land. Ms. Himmelstein stated that the Land Trust would hold the Conservation Restriction on the property.

Judy made a motion that the Commission support the Westbrook Project. Bonnie second the motion. All were in favor.

Ms. Himmelstein informed the board that they will need to submit the grant with the Commission's signature after they get approval at the town meeting. The commission agreed to sign the grant when needed.

### **Miscellaneous/ Open Discussion**

George Courtemanche, Jr. of 722 Main St. introduced himself to the board. He stated that he was told a few weeks ago to come in for an informal discussion regarding his issues with the water on his property. Mr. Courtemanche stated that he almost lost his dog this weekend due to 6 feet of water rushing over. He informed the Commission that he had to jump in after his dog in order to save him. He has spoken to the DPW and the administrative person in the Conservation office and was told to talk to the Conservation Commission and the state.

He informed the Commission that what he would like to do is dredge it out and put up a wall, so he doesn't lose any more of his property. Mr. Courtemanche stated that the Scantic River is inching closer and closer to the road. He explained that he lives in the old Fisher house just near the bend on Main St. He said that he has had water up to his back deck and has had water pouring into his basement faster than he could get it out. Bonnie stated that this house has been under water before. Mr. Courtemanche stated that he wanted to protect his house while keeping the integrity of the stream.

Phil informed Mr. Courtemanche that he will need to get an environmental consultant to help him with this. He needs a professional because this is something that goes into multiple jurisdictional zones, up to and including the Army Corps of Engineers. It would involve Mass DEP, Conservation Commission, etc. To have a chance at doing this, he will have to hire a consultant for assistance in getting the permit to do the work. Mr. Courtemanche stated that he felt this was an emergency situation as the water is only 10 feet away from the road now and we are expecting heavy rain this weekend. Mr. Stinson replied that this would not be considered an emergency as it has been happening gradually for some time now. In order to be declared a natural emergency, it would have to be declared as one by a public official. Mr. Stinson also informed him that he will also need to notify NHESP of any proposed work. Bonnie stated that Mr. Courtemanche should contact an environmental consultant and the Commission could always schedule a site visit to come out and look at it.

### Miscellaneous

Mr. Stinson informed the Commission that he had received an email complaint for 70 Somers Rd. The person who submitted the complaint had said that there was concrete and debris in an area on the property and that they were dumping trash on the riverbank. He pointed out the area on a map to show the Commission. Mr. Stinson informed them that he had stopped on a bridge and took some pictures which he will send to the office tomorrow. The Commission discussed the property in question stating that it was a chicken farm. The Commission stated that they believe debris began collecting in that area last year once the dam let go. Mr. Stinson stated that he just wanted to let them know in case it was something they wanted to investigate further.

The next issue is the Altus Solar Farm on Somers Rd. He asked if a Certificate of Compliance had been issued on that project. The Commission informed him that it has been requested, but has not been issued yet due to the Commission voting for a professional peer review. Donald Frydryk from Sherman & Frydryk will be conducting the peer review. Mr. Stinson asked the Commission if they could look back at what was required for seed mix. He stated that the stormwater calculation is based off of vegetation. If they used grass mix, everything is fine. If they used meadow mix, it could be different. He also mentioned that he did not see a DEP file number on the property.

The meeting was adjourned at 8:55 p.m.

Respectfully Submitted,  
Kelly McCormick

*Accepted: 8/21/2019*