

PEPPERELL CONSERVATION COMMISSION

Minutes – November 3, 2009

The Pepperell Conservation Commission (PCC) held a regularly scheduled meeting under the Massachusetts Wetlands Protection Act, MGL Ch. 131, §40 and the Pepperell Wetlands Protection By-Law. The meeting was held in the Town Hall at 6:30 p.m.

Members present: Elliott presiding, Masterson, Moody, and Rice; members absent: Steeves, Rand, and Sauer.

Conservation Administrator's Report, Part 1

Offer of help to create procedure for Chapter 61 ROFR

Fisher said that Rand had attended a meeting in September about Chapter 61, 61A & 61B land conversions; that is, when owners who have put their land “in chapter” for the real estate tax benefits decide to remove the land from Chapter and sell it. In many of those cases, the Town has the right of first refusal (ROFR) to buy the land at the market price. Rand had brought back notes from the meeting that Fisher had reviewed. Fisher said that she had learned that the Town had the right to assign its ROFR to another organization, either a land trust or other non-profit or a state agency. The timing of either a purchase by the Town or the assignment of its ROFR was tight—only 120 days. Therefore, it was a good idea to have a clear understanding of the process and an established procedure for doing it before an opportunity arose. To this end, Jennifer Rowland, an intern with Highstead, a non-profit from Redding, CT which had co-sponsored the meeting that Rand had attended, contacted Fisher and offered to help the Town set up a procedure that the Conservation Commission could take to the Selectmen for ratification. The Commissioners agreed to participate.

6:30 p.m. Executive Session to discuss strategy with respect to litigation

Town Counsel Ned Richardson attended the meeting to participate in this discussion. At 6:40 p.m., on a motion from Elliott, seconded by Rice, all

VOTED: to enter into Executive Session to discuss strategy with respect to litigation.

At 7:10 p.m., on a motion from Elliott, seconded by Rice, all

VOTED: to end the Executive Session and resume the meeting in Open Session.

Minutes of this Executive Session will be made public when the issue under discussion is resolved.

7:10 p.m. Public Hearing re NOI filed by the Pepperell DPW, Water Division, for relocation of the driveway and utility lines for the Jersey Street II municipal well

DPW Superintendent Bob Lee attended the hearing. Under the Pepperell Wetlands Protection Bylaw, the Commission determined that the project area involves BVW, but the proposed activity is excepted from the 50' setback requirement as a Limited Project under 310 CMR

10.53(3)(d). The Commissioners reviewed the plans submitted with the NOI and the location of the project. Rice asked if it was in Priority Habitat. Lee and Fisher both said that it was not.

Lee said that the reason that the Water Division needed to move the driveway was that a portion of the original driveway connecting the Jersey I well to the Jersey II was mistakenly constructed across a corner of private land. The mistake was discovered when the private land was proposed as part of a subdivision. The owner had granted the Town an easement allowing the underground water line to remain in place, but he had asked that the driveway and overhead utility lines be removed from his land. Lee said that the proposal was to cut trees, remove stumps, and grub a 25'-wide corridor through a wooded area within which a 12'-wide gravel driveway would be centered with utility poles every 150' placed alongside it. He said that there was a narrow finger of wetland that had been delineated by Mike Turgeon which came within 9 feet of the edge of the corridor. Lee said that the utility poles could be placed on the side of the driveway opposite the wetland.

Rice asked if an ATV using the gravel driveway would be attracted to the wetland. Fisher said she did not think so since the wetland is forested and does not have mud flats or visible standing water. Rice asked if the DPW would plow the driveway. Lee said yes, but that they would use only a small plow on a pickup truck, and they could plow the snow to the side of the driveway opposite the wetland. Elliott suggested that the location of the utility poles should be left up to National Grid, noting that putting them on the side of the driveway opposite the wetland would mean that the wires would have to cross the driveway twice to connect at each end. Rice asked if the utility poles needed to be exactly 150 feet apart, even if that meant that one would be very close to the wetland. Elliott and Lee confirmed that National Grid was difficult to work with, but Lee said he would ask that they avoid placing a pole close to the wetland.

Elliott asked about erosion control. Lee said that he was proposing to install a silt fence where the project was within the 100' buffer zone. Elliott suggested again that the Order not specify the exact location of the utility poles. On a motion from Elliott, seconded by Rice, all

VOTED: to close the hearing and issue an Order of Conditions with special conditions as described above.

7:20 p.m. Continued Public Hearing re Notice of Intent filed by Louis Berube of Shattuck Oil Company for replacement of fuel storage and containment structures and parking areas at 16 Groton Street

Prior to the meeting, at the request of the applicant, this hearing was continued until Nov. 17, 2009 at 7:25 p.m.

Other Business

Upon a motion by Elliott, seconded by Rice, with Masterson abstaining, it was

VOTED: to approve the minutes of October 6, 2009 as drafted.

Upon a motion by Elliott, seconded by Rice, it was

VOTED: to approve the minutes of October 20, 2009 as drafted.

Discussion with Cliff Symonds of Beaver Brook Association

Fisher reported having discussed the October 20, 2009 request from Buddy Dougherty that equipment possibly needed to install a bridge and culvert across the Potanipo railroad corridor in Brookline, NH be allowed access to the site over the Bemis Road Conservation Area. The RR corridor is owned by Beaver Brook Association. Symonds had told Fisher that if the grant is awarded, Beaver Brook's Board of Trustees would need to assess the project for consistency with its land management and recreation goals before allowing it to take place. He said that he felt that input from the Pepperell Conservation Commission would be welcome when/if the Trustees assess that decision. Fisher and Rice had visited the sites of the proposed bridge and culvert on October 25th. The Commission concluded that no decision on Dougherty's request was necessary at this time.

Pepperell Springs Forest Stewardship Plan Update

Fisher reported having received a Draft revision of the Stewardship Plan from Forester Craig Birch. The Commission decided to schedule a discussion of the revisions with Birch at the December 1 meeting.

The Commission approved a vacation day for Fisher on November 12, 2009.

The meeting adjourned at 7:50 p.m.

Respectfully submitted,

Ellen L. Fisher