



**Town of Boylston** Conservation Commission [conservation@boylston-ma.gov](mailto:conservation@boylston-ma.gov)  
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## **REGULAR MEETING MINUTES**

### **MARCH 15, 2021**

Members via Remote: Joe McGrath, Dan Duffy, Mark Coakley, Chip Burkhardt

Members Absent: Jeffrey Walsh

Others Participating Remotely: Anna Chase and Matt Ladewig (ESS Group); Glenn Krevosky (EBT Environmental Consultants); John Grenier; Patrick Healy (Thompson Liston); Brian Moffet; Mark Anttila; Peter Gary

Recorder: Melanie Rich

Joe McGrath, Chairman of the Conservation Commission, opened the Zoom meeting at 7:00 p.m. and announced that pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L.c.30A, §18, and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place, the Boylston Conservation Commission meeting will be conducted via remote participation only. It is being recorded for rebroadcast on WBAC.

Commissioner Roll Call: Chip Burkhardt, Dan Duffy, Mark Coakley, Joe McGrath

Confirm April Meeting Date (April 19<sup>th</sup> is Patriot's Day) and review February 16, 2021 Meeting Minutes – Joe McGrath made a motion to schedule the next meeting for April 26, 2021; Mark Coakley seconded; roll call vote: Burkhardt-aye; Duffy-aye; Coakley-aye; McGrath-aye; motion approved. Mark Coakley made a motion to approve the February 16, 2021 Meeting Minutes; Dan Duffy seconded; roll call vote: Duffy-aye; Coakley-aye; McGrath-aye; motion approved (Burkhardt abstained).

**PUBLIC HEARING (continued) – 11 French Drive (Tower Hill Botanic Garden) – Notice of Intent Application and Stormwater Control Permit Application** to redevelop the Tower Hill Botanic Garden main entrance off French Drive (DEP#115-425; SCP#2019)

Joe McGrath explained that the applications were opened in 2019. The applicant requested a continuance to the May meeting. Joe McGrath made a motion to accept the request for continuance to 7:05 p.m. on May 17, 2021; Dan Duffy seconded; roll call vote: Burkhardt-aye; Duffy-aye; Coakley-aye; McGrath-aye; motion approved.

**PUBLIC HEARING (continued) – 260 Shrewsbury Street (Dragon 88) – Notice of Intent Application** to divert stormwater runoff from the fill slopes as well as stabilizing non-vegetated or sparsely vegetated slopes due to the former placement of unauthorized fill which impacted and created Bordering Vegetated Wetlands. (DEP#115-427)

Scott Heim (Northeast Ecological Services) was not present currently. Joe McGrath gave the status of the zoom meeting he attended on March 12<sup>th</sup> with Judith Schmitz (DEP) and Scott Heim. DEP is not satisfied that there is sufficient replication and asked Mr. Heim to go back and look at it to see if there is a way along the northern property line which abuts the Mastrototo property or the lower property line that

abuts the current owners of the Gulf Station to create additional restoration. The matter was deferred and revisited later in the evening. Mr. McGrath showed the area of concern. DEP was suggesting the Commission look at it and he wanted to make the members aware of it. Mr. Heim did email a request to continue. Mark Coakley made a motion to accept the request for continuance to 7:10 p.m. on April 26, 2021; Dan Duffy seconded; roll call vote: Burkhardt-aye; Duffy-aye; Coakley-aye; McGrath-aye; motion approved.

**PUBLIC MEETING (continued) – 100 School Street (Roland & Janice Lizotte) – Request for Determination of Applicability Application** to remove a full exotic invasive plant including the roots.

Glenn Krevosky (EBT Environmental Consultants) was present. Members' concerns were addressed. Dan Duffy suggested a condition that the wetland flags are to be maintained during the work. Mr. Krevosky said he will be on site during the removal.

Mr. McGrath asked for public comment. Hearing none, Dan Duffy made a motion to close the public hearing; Mark Coakley seconded; roll call vote: Burkhardt-aye; Duffy-aye; Coakley-aye; McGrath-aye; motion approved. Joe McGrath made a motion to issue a Negative Determination by Reason #3, adding a condition that all wetland flag markings on the site are to be maintained for the duration of the project; Chip Burkhardt seconded; roll call vote: Burkhardt-aye; Duffy-aye; Coakley-aye; McGrath-aye; motion approved.

**PUBLIC HEARING (continued) – Newton Pond (Shrewsbury/Boylston) – Notice of Intent Application** to implement a long-term vegetation management plan at Newton Pond to manage dense growths of invasive and nuisance aquatic plants. Aquatic plant management actions may include herbicide and algaecide treatments, harvesting, and bottom sealing. (DEP#115-430)

Anna Chase and Matt Ladewig (ESS Group) were present. Joe McGrath reminded them that the ad fee was still outstanding and that no documents can be issued until it is paid. Ms. Chase will contact Peter Collins. Mr. McGrath said at the last meeting the Commission was going to request a peer review. A pond management was identified, a cost estimated received, and the town's process was explained. Mr. McGrath forwarded the information to Mr. Collins on March 8<sup>th</sup>; he was to contact the office to set up the peer review account; he has not done so yet. Mr. McGrath asked if Shrewsbury was going to have a peer review. Ms. Chase said they plan to close their hearing tomorrow. Mr. McGrath informed Mr. Collins that we would provide any information to Shrewsbury. Mr. Ladewig thought draft conditions would be ready for tonight and was told the Commission had planned to do that, but with the pending peer review, it didn't make sense to draft conditions before the peer review was completed. The applicant requested a continuance. Mark Coakley made a motion to accept the request for continuance to 7:15 p.m. on April 26, 2021; Dan Duffy seconded; roll call vote: Burkhardt-aye; Duffy-aye; Coakley-aye; McGrath-aye; motion approved.

**PUBLIC HEARING (continued) – 11 French Drive (Worcester County Horticultural Society) – Notice of Intent Application** to install a perimeter fence to enclose the majority of the contiguous property. (DEP#115-xxx)

Paul McManus (EcoTec) walked the entire Tower Hill perimeter (i.e., proposed fence location) with Tower Hill staff and discovered a couple of BVW areas not mapped on GIS. The applicant requested a continuance. Joe McGrath made a motion to accept the request for continuance to 7:20 p.m. on April 26, 2021; Mark Coakley seconded. Dan Duffy had a concern about the impact of having the fence long-term on habitat and would like Mr. McManus to look at that aspect as well. Mr. McGrath asked him to

contact Mr. McManus with that request. Roll call vote: Burkhardt-aye; Duffy-aye; Coakley-aye; McGrath-aye; motion approved.

**PUBLIC HEARING (continued) – 11 French Drive (Tower Hill Botanical Garden) – Request to Amend Stormwater Control Permit SCP-2020-1** for proposed changes to the site plan to include Meadow grading and Barn paving.

The applicant requested a continuance. Mark Coakley made a motion to accept the request for continuance to 7:25 p.m. on April 26, 2021; Dan Duffy seconded; roll call vote: Burkhardt-aye; Duffy-aye; Coakley-aye; McGrath-aye; motion approved.

**PUBLIC HEARING – 8 Gulf Street (Boylston CP, LLC) – Notice of Intent Application and Stormwater Control Permit Application** to construct 20 senior housing units, access driveway, stormwater management facilities and associated site work. Stormwater Control Permit SCP#2021-1), (DEP#115-xxx)

The hearing notice was read into record. Chip Burkhardt recused himself from the matter. John Grenier (Engineer) was present and requested a continuance. He was told we did not receive the green cards or the ad fee; he will follow up. Mark Coakley made a motion to accept the request for continuance to 7:30 p.m. on April 26, 2021; Joe McGrath seconded; roll call vote: Duffy-aye; Coakley-aye; McGrath-aye; motion approved (Burkhardt recused).

**PUBLIC HEARING – Lots 1 & 2 Perry Road (C J & J Consulting, Ltd.) – Stormwater Control Permit Application** to construct 2 single-family houses, septic systems and associated site work. (Stormwater Control Permit SCP#2021-2)

The hearing notice was read into record. John Grenier was present and was told we did not receive the green cards or the ad fee; he will follow up on this as well. He said lot 1 was before the Commission last year when Mike May owned the property, which he has since sold. The plan has been modified plan to include lot 2 on the west side. There was a great deal of fill placed by the previous owner, there is a stone wall line that is in place on the westerly side, and a good deal of erosion control barriers (silt fence, mulch, and aprons going into the property). Proposed on lot 1 is a single-family house with a paved driveway that would access off Perry Road. Drainage for both lots will be captured through swales and culverts and go into an infiltration basin. Roof runoff will be recharged into the ground. Any areas with greater than 3:1 slopes will be stabilized with mulch and planted with creeping junipers; they will do the same in the back of lot 2 as well. There are no slopes in excess of 2:1. Stone entrance aprons are proposed at each driveway, any open areas mulched and eventually hydroseeded on both properties.

Mark Coakley asked for cut and fill calculations. Mr. Grenier did not do any because most of the work had already been done. He talked about the retaining wall on Perry Road and said the existing grades on the plan are close to what is there today. Mr. Coakley commented on the cuts and fills on the eastern side of lot 1. Mr. Grenier said the major cut on lot 1 was already done, but fine tuning and grading is still needed. Mr. Coakley asked if everything cut will stay on site and was told yes, but they may have to import sand, gravel, and loam for the septic; no heavy hauling of materials off site. The total disturbance is 61,500 square feet. Mr. Duffy asked if the small slope on lot 2 will have the same type of treatment as lot 1 and asked for the planting plan for the junipers. He asked if the area to be stabilized with mulch on lot 2 is intended for long term stabilization. Mr. Grenier said yes, along with the planting of junipers. He was asked about the hatched area on lot 2. Mr. Grenier said they were going to place mulch to stabilize the area prior to any construction; eventually it will be all lawn and grass. Mr. Duffy asked if it was mulched now; he was confused with the note “to be stabilized with mulch”. Mr. Grenier said he has not been to the site this winter, but from his discussion with Mike May, he was placing the mulch there. Mr. Duffy asked to clarify it on the plan (what is existing, proposed, and what they do not intend to do). The

plan does not show what is proposed on the slope. Mr. McGrath said we are missing a SWPPP. Mr. Grenier said they will be filing for a SWPPP. There is no detail of the seed and topsoil or the thickness of the bark mulch proposed. Mr. Duffy commented on the easement in the middle of the two lots. Mr. Grenier said the two lots were chopped out of the larger parcel. For potential future access they left a 50-foot-wide strip. He was asked if there is anything proposed. Mr. Grenier only said it will be planted to be stabilized. He will do a detailed plan and a planting schedule.

Mr. McGrath commented on the grass swale collection area at the bottom of lot 1. He noticed there were two more pipe runs: one at the entrance point to the property which looks like it goes from the general area over to the federal non-jurisdictional wetland, and one from the back of lot 1 that goes to the same area; he asked what they are for. Mr. Grenier said because of the hill on the east they are diverting the water around lot 1 to the left of the house or down towards the street and bypassing the water through the site. A review will be required by Graves Engineering. Mr. Grenier will provide revised plans that will be submitted to Graves for a cost estimate.

Mr. McGrath asked for public comment; there was none. The applicant requested a continuance. Mark Coakley made a motion to accept the request for continuance to 7:35 p.m. on April 26, 2021; Joe McGrath seconded; roll call vote: Burkhardt-aye; Duffy-aye; Coakley-aye; McGrath-aye; motion approved.

**PUBLIC HEARING – 369 Cross Street (The Haven Country Club) – Notice of Intent Application to repair an existing failed CMP culvert. (DEP#115-xxx)**

The hearing notice was read into record. Notification of abutters was received. Patrick Healy (Thompson Liston) and Brian Moffet were present. Mr. Healy explained that the existing culvert has failed and explained the short-term steps proposed to get them to the dry season (July) when a permanent replacement pipe and headwall will be installed. Jute mesh will be put on the grass area and slope where personnel will be entering the swale for the pipe project. Once low flow conditions exist, a temporary coffer dam and pumps will transfer water around the work area and two 24" DI pipes will be installed at the same location as the single 28" CMP culvert. The existing headwall will be modified and replaced in kind; impacts will be temporary. Flow will be pumped around to the lower culvert, it can be excavated, two new culverts can be placed, the walls can be repaired, backfilled, and paved. The golf course will be open; work will have to be done in specific time periods. They will want the equipment to stay on the cart path. Because it is a drinking water supply, protective measures will be put around the work area to provide secondary containment.

Mark Coakley asked if there was power there or would they be using internal combustion pumps. Mr. Healy said more than likely it will be a diesel pump. There are two cart paths; they are suggesting refueling by hand using no more than a 5-gallon container. Mr. Duffy asked if they would be able to push a 24" through what is left of the culvert. Mr. Healy said yes and explained how they would do it. Mr. Duffy asked if they had enough space to put the 20-foot piece of pipe outside the culvert and be able to align it straight to push it through. Mr. Healy said they can align it straight; the question would be on the slope of the pipe; it may have to be done in two 10-feet sections. Mr. Duffy asked how will they push it through? Mr. Healy said the excavator will be parked on the cart path and the bucket will be used to push it. Mr. Duffy would be more comfortable if it were defined as two 10-foot sections. Mr. Healy said there would have to be some sort of fitting to hold them together that may not fit through the culvert and said the contractor does this work regularly with MassDOT.

Mr. McGrath noted that the ad fee was still outstanding and a DEP number has not been issued. Mr. Healy asked if it could be done as an amendment under the existing Order. It was explained that it would have had to be advertised as an amendment. There was discussion about it being a safety issue.

Mr. McGrath read what constitutes an emergency under the WPA and did not feel it qualified in this case. An option was that Commission could close the public hearing and issue the Order of Conditions pending issuance of the DEP file number but, if there is an issue with the DEP response, the applicant would have to readvertise and open it up again which could be more time consuming. All agreed to proceed that way.

Mr. McGrath asked for public comment. Hearing none, Mark Coakley made a motion to close the public hearing; Joe McGrath seconded; roll call vote: Burkhardt-aye; Duffy-aye; Coakley-aye; McGrath-aye; motion approved. Joe McGrath made a motion to issue a standard Order of Conditions referencing the materials provided by the representative and that we do not release the Order until we receive a DEP file number and the outstanding ad fee; Chip Burkhardt seconded; roll call vote: Burkhardt-aye; Duffy-aye; Coakley-aye; McGrath-aye; motion approved.

### **COMMISSION BUSINESS:**

Compass Pointe Update – No representative attended tonight. Mark Anttila (46B Compass Circle) asked about the bond expiring in May. Joe McGrath explained the situation with the bonds. Graves Engineering said the work for stabilization was less than the original bond and the Commission is comfortable with the original bond in place; it is only for work jurisdictional to the Commission. Mr. Anttila asked what is the estimated cost and what is out there? Mr. McGrath said we asked for a revised cost and did not receive one. The Commission cannot issue a Certificate of Compliance until the work is complete, the as-built plans are filed, and the stabilization is correct. If we must hire an engineer to review it, we will do that. Mr. Anttila asked who it falls back on if there is not enough money. Mr. McGrath could not speak to the legalities of that. Mr. Anttila also said the homeowners were never notified of their responsibility. Mr. Duffy explained that the Order of Conditions is an encumbrance and goes with the property (the property owner); stormwater is the responsibility of the developer. Their attorney should have made them aware of it when the title search was done.

Peter Gary (3B Cheryl's Way) said there's been talk about the slopes being loamed and seeded for over a year. Mr. Duffy said nothing could be done because of the weather; we are still waiting for the developer to complete the work. Since it is now a good time weatherwise to assess the conditions, a letter will be sent to Mr. Haynes, Attorney Watsky, Matt Marro and John Grenier to attend the next meeting with their plans for continuing the stabilization of the property. Mr. McGrath also advised the residents to voice their concerns to the Planning Board and Board of Selectmen.

Compass Pointe Letter of Credit (Bond #3042) – This was a reduced bond amount for the restoration that was done without the Commission's approval. The original bond is now in place. No action is needed.

Kim Ames Donation of Land Update – Joe McGrath gave a PowerPoint presentation. There is no access to the site. He explained the several methods to acquire it. There is a tax lien on the property that needs to be addressed. He asked the members if they wanted to actively pursue it or let it go into foreclosure and lobby for it later. Mr. Duffy was all for preserving land but said there is nothing to be done with it and suggested going with the lowest option, Method D (Tax Title Foreclosure via "Deed in Lieu of Foreclosure"). Mr. McGrath said there is no way it could be used for passive recreation; it's too sensitive. Mr. Burkhardt said it has value to be preserved but doesn't think we should spend the funds to do it. Mr. Coakley said he would only justify paying for an appraisal if it was part of a plan and also suggested Method D. Ms. Ames wants to be free of it without paying the tax lien, but until it goes to land court it is her responsibility. Mr. McGrath agreed the Commission should not have to put any money in it. He will do the work as long as there is no cost to the Commission. Members agreed to

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authorize the Chair to work on behalf of the Commission. Mr. McGrath will talk to the Town Treasurer and Tax Collector to see if they would accept Method D and sponsor it; talk to Ms. Ames; and bring it back to the Commission for discussion as to whether it should be brought to the Board of Selectmen.

Consider issuing Certificates of Compliance for Pine Street Boylston Realty: ~~DEP#115-405 (Lot 1 Pine Street)~~; 115-406 (Lot 2 Pine Street); 115-407 (Lot 3 Pine Street); DEP#115-408 (320 Sewall Street Pine Street Extension) & SCP-2017-1 (Pine Street Extension) – No information has been received; tabled to the next meeting.

Correspondence and Emails were reviewed. Paul McManus did a requested site visit at Camp Harrington that Kim Ames requested it at the last meeting. We are waiting for the new owners to come to the Commission regarding some of the lots on Pine Street.

James Ricciardi notified the Commission that Pine Street Realty LLC has sold the property to the Greater Worcester Land Trust and they will assume full responsibility for all obligations under the Conservation Commission as well as the Earth Removal Board.

Having no further business to discuss, Dan Duffy made a motion to adjourn; Mark Coakley seconded; roll call vote: Burkhardt-aye; Duffy-aye; Coakley-aye; McGrath-aye; motion approved.

The meeting adjourned at 9:30 p.m.