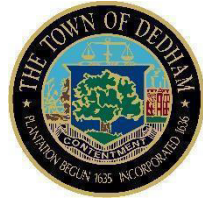


Stephanie Radner, Chair
Nathan Gauthier, Vice Chair
Tim Puopolo, Clerk
Erik DeAvila, Associate
Anne Gotay, Associate
Leigh Hafrey, Associate



Dedham Town Hall
450 Washington Street
Dedham, MA 02026

Tel (781) 751-9210
Fax (781) 751-9109

Patrick Hogan, Interim Agent

TOWN OF DEDHAM

CONSERVATION COMMISSION

Website
www.dedham-ma.gov

Minutes of April 20, 2023

In response to the COVID-19 pandemic and given the current prohibitions on gatherings imposed by Governor Baker's March 23, 2020 "Order Assuring Continued Operation of Essential Services in the Commonwealth, Closing Workplaces, and Prohibiting Gatherings of More than 10 People," this public hearing was conducted virtually, as allowed by Governor Baker's March 12, 2020 "Order Suspending Certain Provisions of the Open Meeting Law," G.L. c. 30A, §20.

The following Commissioners were present:

Stephanie Radner, Chair
Nathan Gauthier, Vice Chair
Tim Puopolo, Clerk
Erik DeAvila
Anne Gotay

The following staff were also present:

Patrick Hogan, Interim Conservation Agent

The following Commissioners were absent:

Leigh Hafrey

The following Applicants and/or Representatives were present:

Leon Goodwin, Town Manager – Stormwater Update
Jason Mammone, Town Engineer – Stormwater Update
Phyllis Carter, Applicant – 43 Meadowbrook Road
Alyssa Jacobs, Representative – 43 Meadowbrook Road
Kevin Carr, Applicant – 43 Meadowbrook Road
Jack Enos, Representative – 43 Meadowbrook Road

Commissioner Radner called the meeting to order at 7:05 pm in accordance with the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, the Dedham Wetlands Bylaw, and the Dedham Stormwater Management Bylaw.

1. Public Comment

Commissioner Radner opened the floor for general comments from members of the public. She received no responses.

2. Stormwater Update from Town Engineer: Potential Reorganization and Commercial BMP O&M Documentation

Jason Mammone, Dedham Town Engineer, gave an overview of the Town's requirements as part of their EPA-issued MS4 permit, which mandates the Town take specific actions to improve surface water quality. As part of this permit, the Town is required to provide removal of 900 pounds of phosphorus per year from discharges to the Charles River over the next 15 years because of the Charles River's impairment for phosphorus. Mr. Mammone stated that current estimates project the cost to remove one pound of phosphorus at \$30,000-\$70,000. Mr. Mammone stated that the EPA is allowing the Town to include the phosphorus removal provided by stormwater best management practices (BMPs) installed on private property when figuring their total removal credit. Many projects permitted by the Conservation Commission have included the installation of these features, as well as reports on their ongoing maintenance. Mr. Mammone stated he contacted 3 of the larger properties in town – Legacy Place, General Dynamics, and the Hebrew Senior Life Center. As these properties were out of compliance with their reporting requirements, Mr. Mammone worked with them to ensure they properly inspected each BMP and, as correction for being out of compliance, provide calculations documenting how much phosphorus was being removed by each BMP. All properties are now in compliance and the collective BMPs have a total phosphorus removal estimate of 107 pounds per year. The Town can now account for the removal of 107 pounds per year against the 900 pound per year removal requirement. Mr. Mammone stated the Town is proposing to hire a Stormwater Manager to oversee stormwater permits and the Town's continued efforts to meet the phosphorus removal requirement.

Leon Goodwin, Dedham Town Manager, agreed that a dedicated Stormwater Manager could further this effort while also being involved in the Town's overall compliance with the terms of its MS4 permit. Mr. Goodwin gave an overview of the changes that are being proposed to accommodate this new position. He mentioned the proposed Stormwater Utility Fee that is designed to address the unfunded mandate from the EPA and stated that these funds are proposed to fund a Stormwater Manager and administrative or technical support staff position. Mr. Goodwin noted that there is a proposal for the Commission to assume the responsibility for management of the Town's open space, but the Commission's agendas are often busy with wetlands and stormwater permits. Mr. Goodwin stated that shifting stormwater permitting to an administrative process overseen by the Stormwater Manager could also free up time for the Commission to devote to managing open space. As further part of this reorganization, the Town is also considering creating a single department that houses Planning, Conservation, and Stormwater.

Commissioner Radner asked if the Town's phosphorus removal requirement was high relative to other towns. Mr. Mammone stated Dedham's removal requirement appears to be in the middle on the statewide list.

Commissioner Radner asked if the Neponset River Watershed has any phosphorus removal requirements. Mr. Mammone stated the Charles seems to be the focus right now, as the Neponset does not have a Total Maximum Daily Load for phosphorus, though there have been talks of one in the future. He noted that the 5-year MS4 permit expires this year, and requirements for the Neponset River Watershed could be instituted in a future permit.

Commissioner Radner stated she thinks adding open space management to the Commission's responsibilities while removing stormwater permitting is a positive change and the correct direction for the Town. She stated she was concerned with the name of the new department, which was tentatively called the Community Development Department in the memo submitted to the Commission. She felt Conservation or something similar should remain in the name.

Commissioner DeAvila asked if the Stormwater Manager would be performing the phosphorus removal calculations for each application. Mr. Mammone denied and stated that the Stormwater Rules & Regulations will be changed to require applicants to provide those calculations as part of their application.

Commissioner DeAvila noted the developments discussed by Mr. Mammone were newer and asked if the Town would be seeking retrofits and operation and maintenance reports on older developments. Mr. Mammone stated that the requirement to provide stormwater operation and maintenance reports is tied

to past stormwater permits for work on the site. Older sites may not have needed stormwater permits when they were originally developed. However, as these properties are redeveloped under the current Rules & Regulations, permits and ongoing maintenance reports would be required.

Commissioner DeAvila stated he would prefer to see an engineer in the role of Stormwater Manager. Mr. Mammone agreed and stated that the draft job description requires a civil, environmental, or stormwater engineering background.

Commissioner DeAvila added that he'd like the Stormwater Manager to work closely with the Conservation Agent as the conservation and stormwater aspects of projects often overlap. Mr. Mammone agreed.

Commissioner Puopolo noted he works for the City of Cambridge, which operates with a Stormwater Manager and a Conservation Agent. He noted that Cambridge's Stormwater Manager is required to be a Professional Engineer and he believes that has worked well. He also agreed that the two positions must work closely together due to overlapping interests and responsibilities. He stated that Cambridge has placed both staff positions within the Department of Public Works. He also noted that the Town of Concord's Conservation Department and Commission have additional open space management responsibilities and have been renamed the Natural Resources Department and Commission, which he feels fittingly describes their role.

Commissioner Gauthier stated the reorganization made sense. He noted that strengthening phosphorus removal calculation requirements was good, but asked that other aspects of the regulations, such as tree replacement, not be weakened under the new administrative body. He asked how the bylaw would be revised and if waivers would be allowed under the new administrative process. He also suggested that the regulations be revisited to ensure projects that don't benefit from stormwater permitting, such as landscaping, have a more streamlined process. Mr. Mammone stated the next steps would involve a bylaw change to designate the Town Manager and Stormwater Manager to oversee the stormwater permitting process. This would be introduced at Fall Town Meeting. He also noted that the regulations will be restructured to remove waivers and function as a list of clear requirements for all qualifying projects. Mr. Mammone added that revisions would be discussed with the Conservation Commission to ensure they agreed with any changes. Mr. Mammone stated that, should the funding for the Stormwater Manager be approved by Town Meeting, Town Counsel would be drafting a Memorandum of Understanding to pass stormwater responsibilities to the new Manager from the Conservation Commission in the near term while the permanent bylaw and regulation changes are prepared.

Commissioner DeAvila asked if the new Stormwater Manager will have a Stormwater Commission and the opportunity for public hearings where neighbors can voice concerns. Mr. Mammone stated the Town is hoping to make it an administrative process similar to street opening or building permits, but he also understands the desire to let abutting properties voice comments. He stated staff is trying to include a way that direct abutters will be notified of permits.

Commissioner Gotay stated she thinks the reorganization is a good idea, but agreed that Conservation should be included in the eventual name of the new department. She also added that she felt strongly tree replacement requirements should continue to be included in any revised regulations.

Commissioner Radner opened the floor to the public for comments. She received no responses. She stated members of the public could reach out to Jason Mammone, Jeremy Rosenberger, or Patrick Hogan to provide any further comments.

3. Continued Applications

3.1. 100 Village Avenue – RDA 2023-02 – Tree Removal

Applicant: Elizabeth Yntema

Representative: Carl Saccone, Landscape Collaborative, Inc.

No representatives were present for this item. Interim Agent Hogan stated he had visited the site and approximated the distance from the work area to the heron nest to be about 150 feet according to GIS. He stated he doesn't believe the project will have a physical impact on the nesting area, but stated he is unsure whether the noise and activity will be disruptive to the herons at that distance.

Commissioner Puopolo stated he has been involved in nest protection activities lately and stated the primary window of concern for stress on the young of Great Blue Herons is May. He recommended continued caution around the nest through June, adding that he believes nearby noisy activities could resume safely in mid-July.

Commissioner Radner agreed that a condition should be added to the Negative Determination of Applicability to delay work until after July 15th, as long as no additional heron nests are established before then.

Commissioner Radner opened the floor to the public for comment. She received no responses.

Commissioner Radner asked if the applicant had reviewed the draft Negative Determination of Applicability. Interim Agent Hogan stated they had confirmed review of the initial draft at the last meeting. He stated he had shared the updated draft with them, as well, and made them aware there would likely be some sort of condition inserted with regards to the herons. He did not receive a response.

Commissioner Radner **motioned to close the public hearing on RDA 2023-02 and issue the Negative Determination of Applicability as drafted with the additional condition that the work shall not commence until July 15th or later, provided no additional heron nests become established.**

Commissioner DeAvila seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 5-0.

3.2. 43 Meadowbrook Road – DEP 141-0607/MSMP 2023-08 – Dredging at Weld Pond Dam

Applicant: Louis DiBerardinis, Representative: Alyssa Jacobs, Epsilon Associates
MIT

Ms. Jacobs stated the project team had conducted a site survey via boat to estimate wetland impacts of the proposed project. Additionally, the Department of Conservation and Recreation (DCR) has recently issued a letter of non-compliance relative to the safety of the dam.

Commissioner Radner reviewed the submitted documents and noted that the applicant is requesting this be assessed as a limited project based on the letter from DCR. She also stated she appreciated the effort to assess potential wetland impacts. Commissioner Radner noted a resident had made her aware of a heron nest around the pond. She stated the known nest seemed to be a significant distance from the project area, but asked if any additional nests had been observed. Ms. Jacobs stated she was not aware of any nests near the project area. Commissioner Puopolo stated the project area was more likely to house the nests of Great Horned Owls, but the owl young should leave the nest within the next week.

Commissioner Radner noted an irrigation pipe that extends from the dam across the Town-owned land at the corner of Meadowbrook and Westfield. She noted a recent leak and subsequent repair and asked if the pipe is part of MIT's infrastructure. Phyllis Carter of MIT stated it is an irrigation line serving the Endicott House property. She stated staff periodically inspect and repair the pipe as needed.

Commissioner Radner stated the wetland on the Town-owned land is a potential vernal pool. She asked Operation and Maintenance plan be developed for the line to ensure protection of this sensitive area. Kevin Carr, also of MIT, stated staff can inspect the length of the pipe. Commissioner Radner also noted the need for emergency maintenance contact information the Town can use if issues are noted.

Commissioner DeAvila agreed and suggested tags with contact information be installed, particularly in case the line breaks outside of business hours to prevent extended impacts.

Commissioner Radner asked if the other commissioners had any additional comments on the applicant's efforts to assess the wetland impacts of the project. She received no responses.

Commissioner Radner opened the floor to the public for comment. She received no responses.

Commissioner Radner asked for Interim Agent Hogan's opinion on when the Commission should require the maintenance plan for the irrigation line. Interim Agent Hogan stated he felt submission of that information could be a condition of the permit, since the information did not seem critical to the Commission's evaluation of the project. Commissioner Radner agreed this was appropriate.

Commissioner Radner asked if the project team had reviewed the draft permits. Ms. Jacobs confirmed and stated they had no comments.

Commissioner Radner **motioned to close the public hearing for DEP 141-0607 and MSMP 2023-08.** Commissioner Puopolo seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 5-0.

Commissioner Radner **motioned to issue the Order of Conditions for DEP 141-0607 as drafted with the additional condition that the applicant submit an operation and maintenance plan for the irrigation line extending from Weld Pond that includes emergency contact information.** Commissioner Puopolo seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 5-0.

Commissioner Radner **motioned to issue MSMP 2023-08 as drafted.** Commissioner Puopolo seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 5-0.

4. Requests for Certificate of Compliance

4.1. MBTA Franklin Branch, Mile Post 11.15 – DEP 141-0539 – Culvert Replacement

Request From: Tim Dermody, Fair Dermody Consulting Engineers

Interim Agent Hogan stated this was an older Order of Conditions. A final inspection was conducted several years ago, which noted that the vegetation had not yet been established. The applicant had not pursued a Certificate of Compliance since. Interim Agent Hogan stated he visited the site confirmed it was now stabilized.

Commissioner DeAvila noted that the Town Engineer had requested information on all culverts under railways in Town. Interim Agent Hogan acknowledged and stated he would pass the request to the applicant when following up on this item.

Commissioner Radner **motioned to issue a Certificate of Compliance for DEP 141-0539.** Commissioner Gauthier seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 5-0.

5. Minutes – 4/6/2023

Commissioner DeAvila **motioned to approve the minutes from 4/6/2023 as drafted.** Commissioner Radner seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 5-0.

6. Agent's Report

Interim Agent Hogan provided the following updates:

- A Minor Stormwater Management Permit was issued for driveway expansion at 1085 East Street.

- A modification was approved to allow trees to be planted instead of shrubs at the Norfolk County drainage project on Old River Place. They had originally planted shrubs and trees, but the shrubs were significantly damaged by deer, so they requested to replace the damaged shrubs with the required number of trees.
- A modification was approved to allow the removal of an additional tree at the permitted project at 30 Oscar's Way. The permittee will provide additional replacement trees, as well.
- An administrative approval was issued for in-kind replacement of the sheet metal on the fuel island canopy at 22 Bridge Street.
- An administrative approval is likely imminent for the installation a 10'-15' section of split rail fence at 43 Jenney Lane.
- The Town has once again received a Tree City Award.
- As noted in a previous meeting, the Building Department is starting to use an online permitting system. Interim Agent Hogan spoke with the Building Commissioner about how projects needing Conservation approval will be flagged. Currently, there is a box prompting approval of the Conservation Commission on the permitting form that the reviewer will need to complete. In the future, the Conservation Department may be given access to the system. At that point, Conservation staff would be able to review each project and determine if additional approvals were needed. Commissioner DeAvila noted that this system could be used as a record of the contractors that are working on specific projects and their past compliance history.
- The Town has received the Chapter 91 Permit for the expansion of the dock at Town Landing. The appeal period will last until 4/25. Once that passes, the Town can pursue the extension of the dock.

Commissioner Radner stated that there is a residential project on Elmwood Avenue that may be above stormwater permitting thresholds and requested that Interim Agent Hogan visit and determine if permitting is needed. Interim Agent Hogan agreed.

Commissioner Gauthier asked if the Town Engineer will be submitting a Request for Determination of Applicability (RDA) for road work this year. Interim Agent Hogan stated he had recently had a conversation with the Town Engineer about this, then consulted the regulations and confirmed road work is not exempt from the local bylaw. He will be contacting the Town Engineer to communicate this finding and let him know an RDA will be needed if any road work is within the buffer to resource areas.

Commissioner Gauthier noted some utility work being performed by Dedham-Westwood Water District. He asked if that work is exempt. Interim Agent Hogan confirmed that the Wetlands Protection Act, the Town Wetlands Bylaw, and the Town Stormwater Bylaw all exempt utility replacement as long as the utility is not significantly enlarged and erosion and sediment controls are used.

Commissioner Radner noted a report from a resident asking why trees were flagged along Westfield Road. She stated the Director of Public Works had agreed to look into it, but she hadn't heard anything since. She asked if Interim Agent Hogan had heard anything. Interim Agent Hogan denied, but stated the Director was checking with the contractor preparing the application for the drainage project in the area.

Commissioner DeAvila stated his schedule has changed and he will be able to attend the entire Wigwam Pond Access Committee meeting on 4/29.

Commissioner Radner asked if the commissioner vacancies had been posted. Interim Agent Hogan stated they were not currently posted online, but he would follow up with the Assistant Town Manager.

Commissioner Gauthier **motioned to adjourn**. Commissioner Radner seconded. All attending commissioners voted "aye." The motion carried 5-0.

The meeting was adjourned at 8:48 PM.