ACTON CONSERVATION COMMISSION
Minutes
November 6, 2013

7:15 PM
TOWN HALL - 472 MAIN STREET
ROOM 204

COMMISSIONERS PRESENT: Terry Maitland, William Froberg, Tom Arnold, Andrew Magee, Amy Green, Jim Colman, Theresa Portante-Lyle

NATURAL RESOURCES DIRECTOR & RECORDING SECRETARY: Tom Tidman

RECORDING SECRETARY FOR HYBID FARM: Bettina Abe

VISITORS: Paul Wexelblat, Gray Wexelblat, Pamela Cochrane, David Cochrane, Jim Snyder-Grant, Rachel Watsky, Ann Marton, John Shea

7:15 41 Esterbrook: Final Wetland Restoration Plan and Status Update

Ann Marton discussed revisions to the restoration plan that had been requested at the last ConCom meeting. All changes are now on the restoration plan dated October 30th, 2013. Ms. Marton presented several "open" items that had required additional research:

a. A review of the local by-law regarding "stump dumps."

b. A further review of aerial photographs showing paddock fence locations: nothing new was found.

c.Town Counsel's review of the draft Administrative Consent Order: George Hall reviewed the ACO sent from John Shea which used language based on a DEP ACO and had very few revisions. George Hall relayed these findings to Tom Tidman.

John Shea added that the structure and inclusion of a suspended penalty was also written into the language of the ACO.

Mr. Arnold asked how work actually being done could be enforced, since this was not an "Order of Conditions".

The Commission discussed setting a time-line for completion dates. In the event that a 75 per cent success rate on plant growth isn't met, what corrective action will be proposed?

Ms. Marton responded that the commission will be receiving a status report in the spring and fall for a five year period as outlined in the Restoration Plan. If there's a problem, corrective actions will be noted there.

Mr. Shea agreed to include language in the ACO specific to addressing a "corrective plan".

The Commission discussed the effects of dredging out the stream channel, specifically the impacts mentioned by down-stream abutters at a previous meeting.

Mr. Magee pointed out that the same amount of storm-water will pass through the site and dredging the stream should not impact the abutter.

Ms. Marton commented that the constructed pools may act to detain water in the restored wetland, helping to meter water leaving the site.

Ms. Green requested that the plans be altered to show that wetland seed mix will be applied to the western side of the stream, if necessary.

Mr. Wexelblat inquired if topsoil will be added to the restoration area.

Ms. Marton explained that observations show a "sheen" on the soil surface, indicating that clay-like, underneath soils are organic. If necessary, 50 per cent leaf compost will be added to amend the soils.

The Commission discussed what happens if the land is sold in the next 5 years during the restoration growing period. If there is no recorded order or nothing attached to the deed, how will the new owners know about the ACO? They discussed imposing a "suspended penalty", and how to establish dates and amounts for the penalty.

Mr. Colman pointed out that the project was in violation for approximately 120 days, and at $300 per day for wetlands violations and $200 per day for buffer zone violations, the combined violations of $500 per day for 120 days would equal $60,000. A reasonable penalty might be 20 percent of $60,000, taking into account good faith efforts to address the violation, and possibly having half the penalty be suspended, with the other half being a fine to be paid now, for instance $6,000 suspended, $6,000 fine payable now.

Mr. Shea responded that he didn't have the authority to speak for the owners regarding setting a dollar amount for the penalty, unless it is all in the form of a suspended penalty.

Mr. Maitland suggested that the Commission take a conservative approach, basing the number of days of violation on the June 13th invoice from the company removing trees from the site, which would be 103 days. On that basis, 103 days times $300 per day penalty equals $30,900 suspended penalty. The Commission discussed whether some portion of the penalty be a fine now, with the remainder being suspended. It was concluded that the penalty of $30,900 was to be inserted in paragraph 14, and the penalty suspended.

Decision: Mr. Magee moved that the Commission accept the Administrative Consent Order with the minor modifications discussed. Mr. Arnold seconded. The vote was 5-2 with Ms. Green and Mr. Colman voting against.

Esterbrook ACO closed at 9:15PM.

7:40 12 Summer Street: continuation of hearing

Rachel Watsky from Goddard Consulting updated the Commission regarding the status of the flagging at 12 Summer Street. Flags have been re-hung, and she would like to walk the site with the Commission.

Mr. Magee pointed out that the Commission's position in the spring based on that site walk was that we disagreed with the location of the flags. Scott Goddard suggested that he go back to the site and adjust flag locations as he saw fit. Mr. Arnold pointed out that the Commission had also asked that the center line of the proposed road be staked. Ms. Watsky also indicated that some of the flags that were re-hung before the first site walk were only "best guesses" as to where the original delineation was, which the Commission was not aware of.

The Commission felt that walking the site now, with flags in their original locations, would not advance the project. Re-flagging is necessary. They agreed to a walk in early May, during the growing season.

Mr. Maitland announced that the Commission would move the 12 Summer Street hearing to the first meeting in May 2014, May 7th at 7:30 PM.

The discussion was closed at 9:35.

8:00 Hybid Farm License Agreement Renewal

Discussion began at 9:35pm. Mr. Colman explained what was discussed at the last meeting with Hybid Farm on September 18, 2013. The McConnon's are requesting that the license agreement be modified to allow horses to walk through the chute from time to time. Mr. Colman felt they should use the portion less damaged and used only occasionally. The area in use needs to be delineated in some way, perhaps by stakes in the field. Mr. Magee says that using the same area will cause damage, indicating it's being used too often. Section 9.5 will be divided into a part A and part B. Mr. Colman will write the new section of the license agreement.

Ms. Green asserted that particular crossings needed to be named. Bettina will set up a site walk with a quarterly checklist in hand.

Jim and Bettina will create a new license agreement and get the McConnons' signature.

Meeting closed at 9:55pm.

Minutes of October 16, 2013: reviewed by TM, AM, AG

Mr. Magee moved to accept the minutes, Ms. Green seconded, all approved

Terry Maitland

Terry Maitland
Chairperson

ACTON CONSERVATION COMMISSION
AGENDA

November 6, 2013

7:15 PM
TOWN HALL - 472 MAIN STREET
ROOM 204

7:15 41 Esterbrook

Final Wetland Restoration Plan and Status Update including (020) (021)

- Review of the Administrative Consent Order by Town Counsel
- Results of continued aerial imagery research to document the presence of the easternmost fence line in the Western Paddock
- Results of research on any local ban on burying stumps on farm land.

7:40 12 Summer Street: continuation; status update

8:00 Hybid Farm: request to renew license (070, 071)

Certificates of compliance:

60 Powder Mill Rd. 85-707 & 85-962 (030)

61 Powder Mill Rd. 85-149, 237,649,673 (040)

107-111 Great Road 85-1004 & 1006 (050)

50-56 Powder Mill Rd. 85-804 & 1002 (060)

93 Strawberry Hill 85-1116: pending

Minutes of October 16, 2013: reviewed by TM, AM, AG

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	020 - NOI 7 Ledgerock Way-Lot A	naturalres	11/19/13	5 MB	
	021 - SDS 7 Ledgerock WAy SDS Lot A_FF	naturalres	11/14/13	7 MB	
	030 - NOI 7 Ledgerock Way-Lot B	naturalres	11/19/13	5 MB	
	031 - SDS 7 Ledgerock Way SDS Lot B_FF	naturalres	11/14/13	7 MB	
	040 - NOI 93 Central St	naturalres	11/19/13	455 KB	
	041 - 93 Central Street Plan	naturalres	11/19/13	139 KB	
	050 - Request for Certificate of Compliance_DEP 85-707 and 962	naturalres	11/14/13	127 KB	
	060 - Request for Certificate of Compliance DEP 85-149, 237, 645, 672	naturalres	11/14/13	268 KB	
	061 - Canoe Landing sketch	naturalres	11/14/13	59 KB	
	070 - Request for Certificate of Compliance DEP 85-1004 and 1006	naturalres	11/14/13	120 KB	
	080 - Request for Certificate of Compliance DEP 85-564 and 1002	naturalres	11/14/13	170 KB	

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2:45 PM 11/19/2013