

**Rochester Conservation Commission
June 4, 2019**

Present:	Michael Conway, Chairman	Absent:	Daniel Gagne, Vice Chairman
	Daniel Gagne, Vice Chairman		Chris Post
	Léna Bourque		Kevin Thompson
	Christopher Gerrior		
	Maggie Payne (<i>arrived at 7:05 p.m.</i>)		
	Laurell J. Farinon, Conservation Agent		
	Margaret Gonneville, Board Administrator		

The meeting was held in the Town Hall conference room. Chairman Conway called the meeting to order at 7:02 p.m. and announced that the meeting was being televised.

**Appointment for Discussion with Joe Perry, Southeast District Service Forester,
Commonwealth of Massachusetts Department of Conservation & Recreation (MA DCR)
about recent Forest Management Act revisions**

Joe Perry, Southeast District Service Forester for the Department of Conservation & Recreation (DCR), was present at the discussion.

Mr. Perry spoke about recent Forest Management changes and frequently asked questions from Conservation Commissions regarding timber harvesting. A copy of the frequently asked questions published by DCR was distributed to the Conservation Commission before the discussion. Mr. Perry stated that Forest Management is a 10-year plan tax deferral program under Chapter 61 and must be performed by a licensed Forester or the landowner. The Forest Cutting Plan is a program with specific rules and regulations which harvests forest products from the woods. All the wetlands, vernal pools and Best Management Practices need to be put in the Forest Cutting Plan, which is good for two years with up to two one-year extensions. If wetland resource areas are properly identified and approved, it is exempt from the Wetlands Protection Act.

Mr. Perry then went over some of the frequently asked questions on the handout. Question #1 addresses the responsibilities of the Conservation Commission after they receive a Forest Cutting Plan. A Forest Cutting Plan allows the state forester to go on private property, but Commission members cannot enter private property without permission. Question #5 addresses who to contact if a Conservation Commission or abutter has questions or concerns. Question #7 addresses how long a Forest Cutting Plan is valid. Question #9 addresses the purpose of buffer and filter strips under the Forest Cutting Practices Act.

Mr. Perry advised that people contact a Forester and/or Conservation Agent to get permission to start forest cutting on their property. Mr. Perry distributed pocket manuals containing forest cutting information.

**Appointment for Discussion with Jason Zimmer, District Supervisor for the Southeast
Wildlife District of the Division of Fisheries & Wildlife to discuss breach of flume at the
Hartley Wildlife Management Area off Hartley Road**

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Jason Zimmer, Supervisor for the Southeast Wildlife District of Fisheries & Wildlife was present at the discussion.

Mr. Zimmer stated that he had received a telephone call from Highway Surveyor Jeff Eldridge on the Thursday night before the Memorial Day Boat Race informing him that the main flume had washed-out overnight at the Hartley Wildlife Management Area off Hartley Road. The flume washed out on both sides. It was an over 70-year old concrete structure with a wooden floor that had rotted out. The wash-out drained former cranberry bogs, but the upper pond retained water. Mr. Zimmer said that he was before the Conservation Commission to request feedback and permission from them. He said that Iron Horse Contracting and Stearns Irrigation of Wareham will be doing the work. Stearns Irrigation came out to do an analysis of the waterways and structure. The current flume was a poured concrete structure with wooden floors and 85-inch border. They designed a larger structure consisting of a twin six-foot flume box divided in the center with 3-foot boards and two 48-inch pipes. At the bottom two feet, an aluminum plate will be welded in. The main access and material will be in the parking area of the school. The native gravel material will be reused and then loamed and seeded. Precast concrete blocks will be put in to hold the flume in place. The structure will be ready today or tomorrow.

Mr. Zimmer spoke to the office of Dam Safety, and learned that the cranberry grower off Snipatuit Road (Ted Brillon) uses the Wildlife Management Area ponds as a secondary water source. Flume repair/replacement is exempt under agricultural use per Dam Safety, and Mr. Zimmer believes that the agricultural exemption applies in this case. He said that the water is very low right now and is barely flowing. All the boards within the dike flumes at the Hartley Wildlife Management Area have been replaced, and a few more boards can be added. He said that it will take less than a day to get out the old structure and then a day to complete the new structure. Mr. Zimmer stated that people have put in or removed boards without the permission of the Division of Fisheries & Wildlife, and that they are looking to stop that from happening.

Member Payne asked if they had investigated putting something in other than a flume. Mr. Zimmer replied that the antiquated structure that was in place (poured concrete) is no longer used, however, they still want a structure with boards that can be removed to control water levels.

Member Gerrior asked about the cost and who will pay for it. Mr. Zimmer stated that this is a short term solution, and that they would like to explore a stream restoration project in the future. He said that the cost of the project will be paid by the Division of Fisheries & Wildlife and will be approximately \$20,000 for the flume, and construction and installation will be another \$20,000. Members asked about the fish and turtle kill as a result of the breach: Mr. Zimmer replied that it was not as bad as expected, and that the turtles will be fine. The fish population will recover within a year or two and now the water will never go below two feet.

Dave Watling, Rochester Herring Inspector, stated that he worked for Stearns Irrigation in the past. He said that the structures they build are well built and the welder that is employed at Stearns is a really good welder. He believes that the design as proposed by Mr. Zimmer is the best solution.

Agent Farinon asked what best management practices will be implemented for the project. Mr. Zimmer replied cutting off water from the coffer dam will eliminate any flow, and they propose to loam and seed to stabilize exposed areas. Siltation control measures will be implemented.

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Agent Farinon reported that she consulted with both Town Counsel Blair Bailey and the Department of Environmental Protection Southeast Regional Office (DEPSERO) and confirmed that the project qualifies as an agriculturally exempt project. Because of the exemption, she said that an Emergency Certification would not be appropriate for this project.

Public Meetings

***(Continued from March 19, 2019)* DEP SE 272-0201 A Request for Certificate of Compliance was submitted by Decas Real Estate Trust for property located at 15 Cranberry Highway, designated as Lot 31 on Assessor's Map 17. An Order of Conditions was issued to Decas Real Estate Trust on August 8, 1993 under DEP SE 272-0201 allowing for the construction of two commercial buildings with parking areas, installation of utilities, sewage disposal, drainage systems and associated grading. An Amended Order of Conditions was issued on May 13, 1997 for the revised design to incorporate a more comprehensive stormwater collection system.**

Chairman Conway announced that the Conservation Commission did not have a quorum tonight for this public meeting. The public meeting was postponed until June 18, 2019.

Conservation Commission to Sign 5.3-acre Conservation Easement to be Recorded with the Araujo Order of Conditions DEP SE 272-569

Jose Araujo was present for the signing of the Conservation Easement.

Agent Farinon stated that the Conservation Commission issued the Order of Conditions last week which stipulated that the Araujo Conservation Easement and Metes & Bounds Plan be recorded at Registry of Deeds with the Order of Conditions. The Conservation Easement grants 5.3-acres of the property on Mary's Pond Road on Assessors Map 12, Lot 1B to the Rochester Conservation Commission from the Grantors, Jose & Elsie Araujo of 13 Elizabeth Way, Rochester, MA 02770

A motion was made by Member Gerrior to accept the Conservation Easement granted by Jose & Elsie Araujo and seconded by Member Payne. A roll call vote was taken with Member Bourque, Member Gerrior, Member Payne and Chairman Conway accepting the Conservation Easement. Chairman Conway signed the Conservation Easement agreement on behalf of the Conservation Commission.

A Request for Determination of Applicability filed by Covanta SEMASS (SEMASS Partnership), 141 Cranberry Highway, West Wareham, MA 02576 for work on property located at 141 Cranberry Highway, Rochester, MA 02770. The applicant proposes improvements within the 100-Foot Buffer Zone including an in-place conversion of an existing dense-graded aggregate access drive to a utility-grade gravel access drive which will consist of a compacted subgrade overlaid by a geotextile fabric, a 4-inch layer of subbase stone, and a 2-inch layer of gravel. Siltation control measures will be implemented. The property owner of record is SEMASS Partnership, 141 Cranberry Highway, West Wareham, MA 02576. The project location is 141 Cranberry Highway, Rochester, which is designated as Lot 1 on Rochester Assessors' Map 17.

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Matthew Moyen of Tetra Tech and Daniel Peters were present at the public meeting representing Covanta SEMASS. Mr. Moyen distributed revised updated plans with additions requested at the site visit on Sunday, June 2, 2019 with the Conservation Commission.

Mr. Moyen stated that the work in the Buffer Zone will not alter the resource area. The work will be taking place on the eastern half of the facility where the existing Air Pollution Control systems, Base Plant Switchyard and Secondary Containment area are located. This will be a multi-phase project in order to do these upgrades. A new Base Plant Switchyard will be constructed and the old one dismantled. The Boiler Baghouse Unit 1 constructed in its place next to the existing Electrostatic preceptor (ESP) Unit 1. Once the Boiler Baghouse Unit 1 is constructed, ESP Unit 1 will be dismantled and Boiler Baghouse #2 will be constructed in its place. ESP Unit 2 will then be dismantled. There will be no increase to the facility's overall footprint. They are proposing a new 25-foot wide perimeter road. On other side of the swale is a berm.

Chairman Conway asked about secondary containment and what kind of oil it will be using. Mr. Peters replied that #2 fuel oil will be used.

Agent Farinon reported that at the site visit on Sunday, June 2, 2019, the Commission noted that the catch basin adjacent to the roadway was set down in a low spot and collecting grass cuttings and debris. Mr. Moyen stated that they will rebuild the structure and add an outlet cover.

Agent Farinon commented that a drainage swale is located between the perimeter road and the Bordering Vegetated Wetland. Siltation control measures will be implemented prior to any construction activity. Agent Farinon recommended that the issuance of a negative Determination of Applicability with the stipulation that the Conservation Agent be contacted prior to the start of any construction activity.

A motion was made to issue a negative Determination of Applicability by Member Gerrior and seconded by Member Bourque. **The motion passed by a vote of 4 in favor, 0 opposed, 0 abstained (4-0-0).**

Public Hearings

***(Continued from May 21, 2019)* DEP File # SE 272-0570 A Notice of Intent filed by Brian & Sheryl Porter, 369 Neck Road, Rochester, MA 02770 for property located at 11 Briarwood Lane, Rochester, MA 02770, designated as Lot 19 on Assessor's Map 26. The applicant proposes to construct and maintain a seasonal 24' Floe Sectional Dock System and a 12' x 12' portable deck platform within Flood Zone A and PH521. This will include selective clearing of underbrush. The property owners of record are Peter & Michele Frey, 11 Briarwood Lane, Rochester, MA 02770. The applicant's representative is SITEC, Inc., 449 Faunce Corner Road, North Dartmouth, MA 02747.**

Jon Connell of SITEC and Brian & Sheryl Porter were present at the Public Hearing.

Mr. Connell presented the revised plan and explained that since the last meeting they made the additions and revisions that were requested by the Conservation Commission.

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Agent Farinon stated that the requested additional details were added to the plan since the last meeting. The open-tread stair and boulders have been added to the plan, as well as the cross section of the dock showing water levels. There is an easement over the Frey property, and the Commission has copy of the easement. Mr. Frey was at the site visit and stated that he has no objection to the project. Agent Farinon recommended the issuance of a Positive Order of Conditions with the stipulation that the Conservation Agent be contacted prior to any construction activity or cutting of vegetation.

A motion was made by Member Payne to issue a Positive Order of Conditions with the stipulation recommended by Agent Farinon and seconded by Member Gerrior. **The motion passed by a vote of 4 in favor, 0 opposed, 0 abstained (4-0-0).**

***(Continued from February 5, 2019)* DEP File # SE 272-0567 A Notice of Intent filed by Pedro Rodriguez, Solar MA Project Management LLC, Series XXXVI, 143 West Street, Suite C201, New Milford, CT 06776, for property located at 0 Walnut Plain Road and 0 Old Middleboro Road, Rochester, MA 02770, designated as Lots 21, 23, & 31 on Assessor's Map 23. The applicant proposes the construction of a ground-mounted photovoltaic solar array generation facility which requires cutting of trees, earthwork and grading within the 100-foot Buffer Zone of a bordering vegetated wetland. Erosion control measures will be implemented. The Commission issued an Order of Resource Area Delineation (ORAD) on August 10, 2018 under DEP SE #272-556 confirming the wetland resource area boundaries. The property owners of record are Diana J. Murphy, Trustee, Midchester Realty Trust, 24 Old Powderhouse Road, Lakeville, MA 02347 and MWH, LLC, 405 Washington Street, Braintree, MA 02184. The applicant's representative is Dan Wells, Goddard Consulting, LLC, 291 Main Street, Suite 8, Northborough, MA 01532.**

(Member Gerrior recused himself from the public hearing.)

A letter from Pedro Rodriguez of Solar MA Project Management LLC was received on May 30, 2019 requesting to withdraw the Notice of Intent filing without prejudice. Chairman Conway announced that the Conservation Commission did not have the voting quorum necessary to vote on the withdrawal request: action on the withdrawal request was postponed until the meeting on June 18, 2019.

(Member Gerrior resumed his role in the meeting.)

Voucher(s)

The following voucher was approved for payment: BayNet Web Services / Monthly Hosting Fee – (July, August & September 2019): \$60.00.

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Commission Business

Minutes

A motion to approve the minutes of May 21, 2019 was made by Member Payne and seconded by Member Gerrior with a minor change to Page 1157 Paragraph 6 changing 24 hours to 72 hours. **The motion passed by a vote of 4 in favor, 0 opposed, 0 abstained (4-0-0).**

Old Business

**591 Neck Road - Order of Conditions Issued to Lorraine Roy Hawkes & William Hawkes
DEP SE 272-539**

Agent Farinon reported that she met with Town Counsel Bailey and he will be drafting a letter putting Mr. and Mrs. Hawkes on notice to take action on their remediation plan. Chairman Conway stated that he would like the Commission to revisit the site.

New Business

Discuss Scheduling a Special Meeting to Discuss and Set Commission Policies

Agent Farinon requested to schedule a special meeting of the Commission on an off night to discuss a few procedural, non-filing related issues. She suggested inviting Attorney Bailey, and having the meeting at the Police Station conference room so that it will not conflict with other boards meeting at the Town Hall. This item will be discussed at the next meeting when the full board is present.

Confirm Member Availability for Future Site Visits and Meetings

Members present confirmed that they will be available for the next Conservation Commission meeting for June 18, 2019; Member Payne will not be available to attend the meeting. Members Gerrior and Bourque will arrange to visit the Araujo property on Old Schoolhouse Road with Agent Farinon on June 10th or June 11th. Members present with the exception of Member Payne scheduled a site visit for Tuesday, June 18, 2019 for the Draper / Snows Pond Road Amended Order of Conditions filing. Members going to the site visit will meet at the Rochester Grange parking lot on Hartley Road at 6:00 p.m.

Adjournment

The meeting adjourned at 8:43 p.m. on a motion made by Member Gerrior and seconded by Member Payne. **The motion passed by a vote of 4 in favor, 0 opposed, 0 abstained (4-0-0).**

Margaret Gonneville, Board Administrator

Michael Conway, Chairman