



TOWN OF PALMER CONSERVATION COMMISSION

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Sarah Brodeur, Chair
Donald Blais, Jr, Vice Chair
Peter Izyk
David Cotter

Agent: Angela Panaccione

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MEETING MINUTES

TUESDAY FEBRUARY 21, 2017 @ 7:00 PM

Members Present: Sarah Brodeur (Chair)
Donald Blais, Jr (Vice Chair)
Peter Izyk
Dave Cotter
Angela Panaccione (Agent)

Members Absent: All Present

Also Present: Dennis Monette, the Licensed Timber Harvester
Jocelyne Bolduc, 1 Aspen Circle
Richard Bernard, 1 Aspen Circle
Sheryl Jyringi, 20 West Ware Road

Meeting Opens: 7:11 PM – Sarah Brodeur (Chair)

7:11 PM Administrative Matters: Minute Approval – February 7, 2017

Motion made by Donald Blais, Jr to approve the minutes from February 7, 2017, as corrected
Motion seconded by Peter Izyk
No further discussion – vote taken: 4-0-0

7:19 PM Land Management Committee Reports

The subcommittee met today to discuss the Midura Expansion Program and other outreach events planned. The cookout at Midura has been rescheduled until June 10, 2017 in hopes the Town will be notified on whether it has received the culvert grant from DCR. The next subcommittee meeting is scheduled for Tuesday March 7, 2017 at 4:30pm. Angela will also be reading “Big Night for Salamanders” to kids during April Vacation week, as part of the Commissions targeted outreach to kids. Hopefully this can coincide with a field trip to a vernal pool in April.

The Commission also received a new request for appoint to the subcommittee. Palmer Resident Nancy Bisnette has expressed interest in serving on the Land Management subcommittee.

Motion made by Donald Blais to appoint Nancy Bisnette to the Land Management Subcommittee
Motion seconded by Peter Izyk
No further discussion – vote taken: 4-0-0 – Motion Carries

7:20 PM Administrative Matters: MACC Payable \$115.00

Motion made by Donald Blais, Jr to approve the payable to MACC in the amount of \$115.00, as payment for MACC Spring Conference for David Cotter, to be held Saturday March 4, 2017, from 8am-6pm @ Holy Cross in Worcester

Motion seconded by Peter Izyk

No further discussion – vote taken: 4-0-0

7:22 PM Administrative Matters: CRWC Payable \$300.00

Motion made by Donald Blais to approve the payable to Connecticut River Watershed Council (CRWC) in the amount of \$300.00, from the Conservation Maintenance Account, as payment for water quality sampling (E.coli) for Quaboag River (Water St) & the Swift River (First St)

Motion seconded by David Cotter

No further discussion – vote taken: 4-0-0

7:23 PM Administrative Hearing – L 21 Aspen Circle (Map 10-20); Road Construction

The Commission will hold an administrative hearing to discuss the violations that have occurred at L21 Aspen Circle. Violations include, but are not limited to failure to obtain a permit prior to conducting an activity subject to regulation under the MA Wetlands Protection Act & the Town of Palmers Wetlands Ordinance & Regulations.

Sarah Brodeur re-opened the Administrative Hearing on the Violations. Dennis Monette, the Licensed Timber Harvester for the FCP was present, as well as property owner Jocylen Boulduc and her husband Richard Bernard.

Brodeur began by asking Dennis Monette about the FCP he conducted at Lot 21 Aspen Circle. Monet stated he is a small business, and it was just himself and his partner that conducted the harvest. They only operate a small skidder and followed the one existing access road on site. He showed the Commission the access road used on the map included in the approved FCP. Monet also stated he did not add additional skid trails on the property and he did not cross any wetlands. He conducted the harvest from July 2015-November 2015, and the site was very dry.

The Agent requested a copy of the GIS map produced by Attorney Brandon Ruotolo, highlighting all the roads currently on site. Roads in blue were approved in the 2015 FCP, whereas green roads were not but are present on site. Jocylen Boulduc produced the map, and Monette stated on the record he did not put in any of those roads. He stated he only followed the one existing road, and at the time of the harvest it was not a “loop trail”, as it is currently depicted on Ruotolo’s current GIS maps of the parcel. Monette stated he does not possess the equipment to put in that many skid trails.

Upon further discussion, it was agreed upon by the property owners to proceed with the EO requirements for restoration of the roads constructed on site. They will submit an “Existing Conditions Plan” by May 15, 2017. The Commission will review the existing conditions plan at the May 16, 2017 meeting. At that point the Commission will work with the property owners on site restoration, with the possibility of permitting trails on the property. Any trail that crosses a wetland would need to be replicated elsewhere on site at a 2:1 ratio or completely removed and replaced with a bog bridge.

Motion made by Donald Blais, Jr to continue the Administrative Hearing until 7:00pm on Tuesday May 16, 2017

Motion seconded by Peter Izyk

No further discussion – vote taken: 4-0-0 – Motion Carries

8:21 PM Administrative Hearing – L 2 Boston Road (Map 3-6-1); Solar Array Construction

The Commission will hold an Administrative Hearing to discuss violations that have resulted from the construction of a ground mounted solar array. If a majority of the Commission finds a violation has occurred, the landowner and /or individual responsible for the violation may be fined not more than \$300.00 per violation, per day. The amount of the fine will be determined by the Commission at the Administrative Hearing.

Sarah Brodeur re-opened the Administrative Hearing on the Violations. No other parties were present.

On January 11, 2017 the erosion control line blew at Lot 2 Boston Road, Palmer MA and heavy amounts of fine sediments entered the Quaboag River. Since the Commission first discovered work was occurring on site (December 5, 2016) the Agent instructed NextSun Representatives to install their required detention basin immediately. According to the NOI and the SWPPP a temporary basin should have been installed prior to any site disturbance, and the final basin should have been constructed during initial site grading (prior to any solar array construction). NextSun representative assured the Commission the basin would be installed as soon as possible, and the Agent monitored the site and reached out several times to both NextSun and the property owners about the importance of getting the basin installed immediately. She warned NextSun that the lack of the basin, in conjunction with the fact that none of the site is stabilized, would result in a washout. If the basin had been constructed according to the schedule, or even the week or two after the Agent discovered it was not in place the new violations would not have occurred. Additionally, if NextSun representatives were following the SWPPP and monitoring the site during rain events over ¼” they would have discovered the violation, and not the Conservation Agent. The discharge of sediments into impaired water way was due to NextSun negligence at complying with the OOC, site plan, SWPPP, OMP, and construction schedule.

NextSun has already offered restitution for previously administrative violation documented on December 5, 2016 for failure to notify the Commission prior to activity. At that point (December 5, 2016) the Agent instructed the company to install their required detention basin immediately. According to the NOI and the SWPPP a temporary basin should have been installed prior to any site disturbance, and the final basin should have been constructed during initial site grading (prior to any solar array construction). If the basin had been constructed according to the schedule, or even the week or two after the Agent discovered it was not in place the new violations would not have occurred. The discharge of sediments into impaired water way was due to NextSun negligence at complying with the OOC, site plan, SWPPP, OMP, and construction schedule.

In response to the violations on site, the Commission held administrative hearings on February 7, 2017. The Commission discussed the violations with the representatives, and noted January 30th as the day the basin was completed. Violations and fines were calculated based upon the time frame of December 5, 2016-January 30, 2017 (64 days). A total possible fine was assessed by the Commission and the notice of the fine and explanation thereof, including the date of the violation from which daily violations are counted was hand-delivered to NextSun. Where remedial action is possible, each day which the violation continues constitutes a separate offense, and each provision of the Ordinance, Regulations or Permit violated constitutes a separate offense. Based on the number of violations present, as well as the continuing nature of the violations, the Commission assessed the maximum fine at \$89,400. Under the Commission’s Enforcement Regulations, they may accept a written plan with timetable for full restoration and restitution of the violation and may then withhold sending the Notice of Fine for a specified time period. If satisfactory restitution is not made within a timely manner, the Notice of Fine is retroactive.

At tonight's continuation of the administrative hearing the Commission discussed the restitution offer, in the form of a proposed donation from NextSun, in the amount of \$6,400 for the violations where remedial action is not possible (discharge of fine sediments into an impaired waterway). The donation will be credited to the Commissions Land Management Account and will be specifically used for protecting the waterways associated with the Quaboag River Watershed.

The Commission also discussed requiring NextSun continually monitor the site until it is fully stabilized (i.e. vegetation growing). Currently the entire site is exposed (open ground w/ exposed soils) and no temporary protective measures were taken to cover the ground before winter (ESC blankets, hay, stump grindings). Since this could potentially result in further disturbances to resource areas, the Commission is requesting NextSun provide them with copies of all SWPPP reports after they have been completed. Please note under your SWPPP you are required to conduct inspections of stormwater and sediment controls weekly and during any rain event over ½”.

Motion made by Donald Blais, Jr to accept the proposed donation from NextSun, in the amount of \$6,400, as restitution for the violations where remedial action is not possible (discharge of fine sediments into an impaired waterway). The donation will be credited to the Commissions Land Management Account and will be specifically used for protecting the waterways associated with the Quaboag River Watershed

Motion seconded by David Cotter

No further discussion – vote taken: 4-0-0 – Motion Carries

Motion made by Donald Blais, Jr to continue the Administrative Hearing until 7:30pm on Tuesday May 16, 2017

Motion seconded by David Cotter

No further discussion – vote taken: 4-0-0 – Motion Carries

8:30 PM Administrative Matters: Other Projects, Monitoring, Enforcement and Violations

1. Work from Home Policy: The Commission does not have a work from home policy and will not be setting one. They have previously stated the Agent may work from home as needed, especially with the new temporary office arrangements.
2. Violation Update – Palmer Motorsports Park Septic System: Besides making sure the entire site is stabilized (vegetation growing on area of exposed soils) the Commission still has issues with the loss of Old Quarry Road (which had a surveyed easement recorded against the deed and is not under the access road) and the fact PMP has placed a locked security gate on their property, there by restricting the Commission access to its own property. At this point, due to the damages that have occurred on Conservation Land from construction the Commission wants to be compensate for the loss of both the property, and Old Quarry Road hiking trail.
3. MACC Spring Conference: Saturday March 4, 2017 @ Holy Cross in Worcester
4. MACC Fundamentals Training: New MACC Fundamental *Units 205: Effective Erosion and Sediment Control* & *206: Stormwater Requirements for Wetlands Protection* are being offered for FREE on Saturday March 18, 2017 in Ipswich MA. These two training will be \$75/session after this date. The Agent & Chair Brodeur would like to attend the free trainings, but Ipswich is far (2hr+ drive). The Commission agreed Angela & Sarah could book a hotel room for the night before to attend the training.

5. Mass Land Conservation Conference: Saturday, March 25, 2017 @ Worcester Technical High School

Office Closed: Wednesday March 8, 2017 & Wednesday March 22, 2017

Next Meeting Date: Tuesday March 7, 2017 at 7:00pm

Meeting Adjourned: 9:35 PM

Motion made by Donald Blais, Jr to adjourn at 9:35 PM

Motion seconded by David Cotter

No further discussion – vote taken: 4-0-0 – Motion Carries

Sincerely Submitted,
Angela C Panaccione, Conservation Agent