



William F. Martin
Mayor

City known as the Town of
GREENFIELD, MASSACHUSETTS

CONSERVATION COMMISSION

Town Hall • 14 Court Square • Greenfield, MA 01301
Phone 413-772-1551 • Fax 413-772-1309
Conservation@greenfield-ma.gov • www.greenfield-ma.gov

Members:

Blasiak, John (2016)
DeHoyos, Thomas (2016)
Haro, Alex (2014)
Letourneau, Dee (2014)
Mosher, Timothy (2015)

GREENFIELD CONSERVATION COMMISSION

Minutes of Tuesday April 22, 2014

**7:00 p.m. Greenfield Department of Planning and Development
114 Main Street**

The meeting was called to order by vice-chair, Tim Mosher at 7:00 p.m. with the following members:

PRESENT: Tim Mosher, Vice-chair
Tom DeHoyos
Dee Letourneau
John Blasiak

ALSO PRESENT: Mik Muller
Donna Dusell
Maureen Pollock, Assistant Planner & Conservation Agent

ABSENT: Alex Haro, Chair

Approval of Minutes:

Approval of Meeting Minutes from April 15, 2014.

MOTION: Moved by Blasiak, seconded by DeHoyos, no further discussion and voted 3-0-1 (Mosher abstained) to hold off the review of the April 15, 2014 meeting minutes until more information is added to the minutes in support of providing a better narrative

Public Meetings/Hearings:

7:10 Cont. RDA – Massachusetts Bay Transportation Authority, 12 Olive Street: Request for Determination of Applicability submitted by Massachusetts Bay Transportation Authority (MBTA), for property located at 12 Olive Street (Assessors Map 29 Lot 36A), to determine whether the area and work is subject to the Wetlands Protection Act and the Town of Greenfield Wetlands Protection Ordinance. Proposed work pertains to the construction of the Greenfield Train Station.

Christopher Wagner, a representative for the applicant requests for a continuance unto the May 29, 2014 meeting because he anticipates a revised plan for the train station will be submitted at that time.

MOTION: Moved by DeHoyos, seconded by Letourneau, no further discussion and voted 4-0-0 to



William F. Martin
Mayor

City known as the Town of
GREENFIELD, MASSACHUSETTS

CONSERVATION COMMISSION

Town Hall • 14 Court Square • Greenfield, MA 01301
Phone 413-772-1551 • Fax 413-772-1309
Conservation@greenfield-ma.gov • www.greenfield-ma.gov

Members:

Blasiak, John (2016)
DeHoyos, Thomas (2016)
Haro, Alex (2014)
Letourneau, Dee (2014)
Mosher, Timothy (2015)

continue the hearing until Tuesday, May 29, 2014

Other Business:

Request for Certificate of Compliance: 189 Shelburne Road (DEP #168-0255) A request for a Certificate of Compliance (COC) was submitted to the Commission by Joseph A. Pacella, Esquire, for the property located at 189 Shelburne Road (Assessor's Map R25, Lot 9), for the work pertaining to the demolition of a former garage/office building including slab and foundation. A site visit occurred with Conservation Agent Maureen Pollock on October 18, 2014. Pollock stated there was debris along the bank and in the stream channel. Pollock contacted representatives to remove all debris. Pollock conducted a follow-up site visit on April 22, 2014 and stated all debris was removed off-site and the site is permanently stable. Pollock supplied the Commission several photographs of the completed portion of the site.

MOTION: Moved by Letourneau, seconded by Blasiak, no further discussion and voted 4-0-0 to issue the COC for 189 Shelburne Road (DEP # 168-0255) with the following ongoing conditions to continue: 17; 19; 22; 25

20 River Street (Assessor's Map 32, Lot 4): Property owners, Mik Muller and Donna Dusell were present to further discuss their request to remove two dead trees on their property. Pollock received a written statement from the property owner's licensed arborist that explains the removal operations and where the placement of slash, branches, and limbs resulting from the cutting will occur. Pollock read aloud the arborist's statement:

"To remove the trees on your property we will use ropes, pulleys, and a winch to guide the trees down in the desired location. The winch is attached to our chipper which will be parked at the end of your driveway, and will also pull the trees up and away from the river towards where we will process the wood. Branches and the logs that are not good for firewood will be chipped into the back of the truck. Any logs that are decent firewood and or chips, can be left on site if you want them, or will be removed for further processing or storage off site. We will not be using any machines other than the chipper for this operation. Trees will be pruned either by pole saw, or if not reachable, by climbing. As an aside, for health and environmental considerations, we use vegetable oil in our saws as bar and chain lubricant. Thanks, and let me know if you have any further questions. Walker, The Whole Tree"

DeHoyos stated the property is within the 100-year floodplain. The wood chips must be removed off-site because the chips would add to the compensatory storage if left on-site.

Blasiak stated he would like the dead tree located approximately 5 feet from the river not removed. The dead tree possesses ecological value and natural habitat.



William F. Martin
Mayor

City known as the Town of
GREENFIELD, MASSACHUSETTS

CONSERVATION COMMISSION

Town Hall • 14 Court Square • Greenfield, MA 01301
Phone 413-772-1551 • Fax 413-772-1309
Conservation@greenfield-ma.gov • www.greenfield-ma.gov

Members:

Blasiak, John (2016)
DeHoyos, Thomas (2016)
Haro, Alex (2014)
Letourneau, Dee (2014)
Mosher, Timothy (2015)

DeHoyos stated he agrees the dead tree located approximately 5 feet from the river should remain, but the dead tree located 35 feet from the river that poses a safety hazard on the house should be removed.

Pollock stated under the WPA and local Ordinance, the dead tree located 35 feet from the river is not a jurisdictional activity for the Commission; therefore, there is no problem for the removal of the tree. The tree located 5 feet from the river is within the 25-foot No Disturb Zone; therefore, it should not be removed.

The Commission has determined the removal of the dead tree located 35 feet from the river's bank is a non-jurisdictional activity.

Green River Festival: Overflow Parking at the Wedgewood Gardens site – A representative was not present. Pollock received a written statement and proposed plan from the new Green River Festival organizers. Pollock read aloud the statement:

“Greetings Commissioners, We are once again requesting the use of Wedgewood Garden open space for parking in 2014. We are using the same basic plan as in 2013 and 2012 as that worked exceptionally well. This year we are planning only to open the space for overflow if need be. The use of this space has been invaluable and we hope once again, on July 12 and 13 of 2014 to utilize this great town resource.

After four years of experience we have honed an efficient and well trained volunteer parking staff and have made the best use of the space. We offer the attendee's portalets, a place out of the sun and water. This year we are continuing to include better signage and temporary lighting in the field for when people are returning to their cars on Saturday night.

We work with FRTA and the Greenfield Police to be sure passage to the field is safe and free of incident. We have made every effort to return the property in better condition than when we found it and very much appreciate that it has been made available to us. We can submit a map with the parking plan which we expect to use if you require. Again, thank you for your consideration, Peter Hamlin, Jeff Martell (Green River Festival)”

Letourneau stated she would like to have the new organizers come before the Commission to discuss the proposed activities in greater detail

MOTION: Moved by Blasiak, seconded by DeHoyos and voted 4-0-0 to continue the discussion until the Green River Festival organizers can come before the Commission to discuss the proposed activities in greater detail.

Draft Chapter 195, Greenfield Wetlands Protection Ordinance: Blasiak updated the Commission regarding the Commission's responses to the A&O Com questions. Haro sent all



William F. Martin
Mayor

City known as the Town of
GREENFIELD, MASSACHUSETTS

CONSERVATION COMMISSION

Town Hall • 14 Court Square • Greenfield, MA 01301
Phone 413-772-1551 • Fax 413-772-1309
Conservation@greenfield-ma.gov • www.greenfield-ma.gov

Members:

Blasiak, John (2016)
DeHoyos, Thomas (2016)
Haro, Alex (2014)
Letourneau, Dee (2014)
Mosher, Timothy (2015)

Commissioners his final responses to the A&O Com. Blasiak sent Haro a few edits to Haro's responses. Haro informed Blasiak that his edits warranted a quorum so the Commission could further discuss Blasiak's edits before they could be added to the final version.

Mosher stated that he understands the reasons why Haro sent the responses to everyone on the Commission; however, the Commission cannot be emailing back and forth due to the state's Open Meeting Law, which considers email chains as quorum. Emailing back and forth would be considered a violation of the Open Meeting Law. Mosher stated a Commission member can email the whole Commission with information, but a Commission member cannot respond back to the email.

Blasiak stated his email to Haro was not part of a discussion, but rather the email just stated a few corrections.

Mosher responded that is fine. Mosher stated he would like to put a reminder out there for everyone on the Commission when Commission members receive emails, be careful what you do with the correspondence.

Letourneau stated she would like to clarify that the Commission had told the A&O Com that the Commission would make revisions to their responses before submitting to the A&O Com. Similar to the draft meeting minutes, which are emailed to the whole Commission, Haro emailed the whole Commission his responses for further review and discussed during a Commission meeting.

Mosher stated he would like to now review the responses Haro had made since April 15, 2014 meeting.

Question 1: Why was this rewrite of the Wetlands Ordinance done? And the reasons and rationale for so doing?

Draft response: "The Ordinance was rewritten at the request of the Town Council. When Greenfield was established as a City, rather than a Town, a requirement arose to reclassify our Bylaws as an Ordinance. Also, the current Bylaw was by then over 10 years old, and several changes had already been made to the Wetlands Protection Act, so a rewrite was timely."

Commission members expressed they were satisfied with the response to Question 1.

Question 2: Is the new proposed Ordinance more or less restrictive? What supports this position? Will it hold up when reviewed?

Draft response: "(We assume it is meant that the proposed Ordinance is more/less restrictive than the current Bylaw, not the WPA). The Commission feels that there is no good metric for the term



William F. Martin
Mayor

City known as the Town of
GREENFIELD, MASSACHUSETTS

CONSERVATION COMMISSION

Town Hall • 14 Court Square • Greenfield, MA 01301
Phone 413-772-1551 • Fax 413-772-1309
Conservation@greenfield-ma.gov • www.greenfield-ma.gov

Members:

Blasiak, John (2016)
DeHoyos, Thomas (2016)
Haro, Alex (2014)
Letourneau, Dee (2014)
Mosher, Timothy (2015)

‘restrictive,’ since the term is somewhat subjective. In general, the proposed Ordinance is more ‘protective’ of wetlands resources. The verbiage is clarified and specific definitions are given. Some resource areas are given specific protection that were not in the original Bylaw; i.e., vernal pools by definition. Fines were increased, also addition of a requirement for expert consultation for special studies.”

Mosher stated the last sentence needs to be cleaned up grammatically.

Blasiak stated the last sentence should be reworded with the following verbiage, “Fines were increased and a requirement for expert consultation for special studies was added.”

Letourneau stated she is now satisfied with the response to Question 2.

DeHoyos stated he is now satisfied with the response to Question 2.

Question 3: Why was the word "shall" replaced and how will this be interpreted?

Draft response: “The Commission reviewed the usage of the terms “shall” and “may” throughout the draft Ordinance; in most cases the term “may” was replaced by “shall” when required. Use of the term “shall” is restricted to cases where an action is optional or dependent on certain circumstances.”

Letourneau stated in the last sentence, the word “shall” should be changed to “may.”

Question 4: The reasons for and against the Waiver provision?

Draft response: “FOR: See letter from MACC to Maureen Pollock, dated March 25; the Commission feels this is an accurate synopsis of a rationale for a Waiver.

AGAINST: The conditions for invoking a Waiver are open to interpretation by members of the Conservation Commission; e.g., ‘no reasonable conditions or alternatives,’ ‘avoidance, minimization, mitigation have been employed to the maximum extent,’ ‘overriding public interest,’ ‘restriction of use of property to constitute a taking.’ Some of these criteria may be outside the knowledge, expertise, or technical jurisdiction of members of a Conservation Commission. An uninformed or poorly trained Commission might invoke (or be persuaded to invoke) a Waiver unnecessarily. By not having a Waiver, applicants can technically be denied a permit due to Ordinance regulations, but can appeal to DEP for a Superseding Order of Conditions.”

Blasiak stated the waiver only applies to the local Ordinance. When the Commission approves an Order of Conditions under the WPA, the Commission must confirm to the WPA regulations. The



William F. Martin
Mayor

City known as the Town of
GREENFIELD, MASSACHUSETTS

CONSERVATION COMMISSION

Town Hall • 14 Court Square • Greenfield, MA 01301
Phone 413-772-1551 • Fax 413-772-1309
Conservation@greenfield-ma.gov • www.greenfield-ma.gov

Members:

Blasiak, John (2016)
DeHoyos, Thomas (2016)
Haro, Alex (2014)
Letourneau, Dee (2014)
Mosher, Timothy (2015)

Commission cannot waive any the conditions under the WPA. The Commission only has the authority to waive conditions under the local Ordinance.

Mosher stated MassDEP does not recognize the 25-foot No Disturb Zone. With that mind, the dissatisfied applicant can appeal to Superior Court.

Blasiak stated MassDEP cannot waive or exempt anything under the local Ordinance; therefore, the applicant cannot seek a Superseding Order of Conditions or a variance for items under the local Ordinance.

Pollock will verify whether Superseding Order of Conditions and variances are applicable to items under the local Ordinance.

Question 5: Comparing the current section 195-2 B (4) with the new 195-2 A d, the Commission has removed the current 4 b language, and removed the intention clause. Please explain your thoughts and intentions in making that change.

Draft response: “(Wetlands Crossings; 4b verbiage removed: ‘Adjacent property, which would have provided dry access to the uplands, has not been sold off or built on by the current or previous owner; and).’ We considered the 4b language to be implied in 4a (subsection d.i. in revision). The intention clause (in italics) is identical to that in the original Bylaw and was not removed.”

Blasiak stated the 4b language was not implied by the Commission. The 4b language was arbitrary and ineffective.

Letourneau stated she concurs with Blasiak; the 4b language was not implied.

Blasiak stated the following sentence should be removed from the response: “We considered the 4b language to be implied in 4a (subsection d.i. in revision).” The following sentence should be added to the response, “The Conservation Commission considered the 4b language to be arbitrary and ineffective.”

Mosher and DeHoyos agreed the sentence in mention should be removed, and the sentence in mention should be added to the response.

Question 6: Comparing the current section 195-2 B (5) with the new 195-2 A e, the Commission has changed the standards needed to replicate, and has removed the intention clause. Please explain your thoughts and intentions in making that change. Also, please explain how the new section 195-2 A e may be implemented as compared to the current section.



William F. Martin
Mayor

City known as the Town of
GREENFIELD, MASSACHUSETTS

CONSERVATION COMMISSION

Town Hall • 14 Court Square • Greenfield, MA 01301
Phone 413-772-1551 • Fax 413-772-1309
Conservation@greenfield-ma.gov • www.greenfield-ma.gov

Members:

Blasiak, John (2016)
DeHoyos, Thomas (2016)
Haro, Alex (2014)
Letourneau, Dee (2014)
Mosher, Timothy (2015)

Daft Response: “(Replication). The first sentence of the 2001 bylaw is strongly worded, suggesting replication will not be allowed, but the second sentence states that replication can be allowed under some circumstances. The Commission sought to clarify this contradiction. We opted to include MACC Model bylaw verbiage in this section because it explicitly stated that replication could be allowed, but only under specific conditions, and what specifically is required for replication. However the revised Ordinance does not specify under what conditions replication could be allowed. The 2001 bylaw states that replication will be allowed ‘only where the landowner will be deprived of substantially all economic use of the property, there are no reasonable alternatives, and the wetland area to be lost is minimized to the greatest extent possible,’ but the Commission thought that these criteria were somewhat subjective, and possibly out of the purview (i.e., economics) of the Commission. The verbiage to specify under what conditions replication could be allowed could be strengthened and made more specific. Alternatively, replication could not be allowed, period.

The following verbiage could be used to clarify when a replication could be allowed (per J. Blasiak): ‘Replication shall only be allowed when a preponderance of evidence demonstrates to the satisfaction of the Conservation Commission that the hydrological and ecological value of the replicated wetland would be greater than that of the wetland to be replaced. Estimation of wetland value shall be based upon the guidelines for wetland replication as described in the 2002 Massachusetts Inland Wetland Replication Guidelines; Commonwealth of Massachusetts Guidance No. BRP/DWM/WetG02-2.’”

Mosher stated the intention is not a clause

Mosher stated he would like to see the word “shall” replaced by the word “may” in the following verbiage: “Replication shall only be allowed when a preponderance of evidence demonstrates to the satisfaction of the Conservation Commission that the hydrological and ecological value of the replicated wetland would be greater than that of the wetland to be replaced. Estimation of wetland value shall be based upon the guidelines for wetland replication as described in the 2002 Massachusetts Inland Wetland Replication Guidelines; Commonwealth of Massachusetts Guidance No. BRP/DWM/WetG02-2.”

Blasiak stated he would prefer the word “shall” remain in the verbiage in mention. It is up to the A&O Com to determine which word to use, so lets put “shall/may” so the A&O Com may decide.

Letourneau stated she concurs that the language should include “shall/may” so the A&O Com may decide

Question 7: How does the new section 195-2 A e work in conjunction with new paragraph 195-7 G? Are both set of criteria/standards needed for replication?



William F. Martin
Mayor

City known as the Town of
GREENFIELD, MASSACHUSETTS

CONSERVATION COMMISSION

Town Hall • 14 Court Square • Greenfield, MA 01301
Phone 413-772-1551 • Fax 413-772-1309
Conservation@greenfield-ma.gov • www.greenfield-ma.gov

Members:

Blasiak, John (2016)
DeHoyos, Thomas (2016)
Haro, Alex (2014)
Letourneau, Dee (2014)
Mosher, Timothy (2015)

Draft Response: “The verbiage is nearly identical in both sections, so it is somewhat of duplication. The MACC Model bylaw refers to replication in its section on Permits and Conditions; the Commission felt some mention of replication should be made in this section as well. Both sections could be rewritten; for example with the section Jurisdiction stating that the Commission will limit (or prohibit) replication (and under what circumstances), while the Permitting Conditions section could define what would be required should replication be allowed.”

Letourneau stated the response clarifies the question and that is what the A&O wanted.

In 195-7G, is this the appropriate place for language about posting a bond to be added?

Draft Response: “Bonds are currently mentioned only in 195-10. A. Some mention of a Bond could also be put in 195-7.G., but there may be other circumstances (i.e., restoration, enforcement orders) where a Bond may also be chosen to be issued. The Commission feels this matter may need to be researched further from a legal perspective.”

Letourneau stated the verbiage “chosen to be issued” should be replaced with “required.”

Letourneau stated she agrees the usage of bonds should be researched further from a legal perspective.

Question 8: The Waiver under current 195-4 H. and under new 195-7 D is the same. Can you provide an example of circumstances when this waiver might be used by the Commission?

Draft response: “Technically, the Waiver could be invoked under any of the conditions specified (‘no reasonable conditions or alternatives,’ ‘avoidance, minimization, mitigation have been employed to the maximum extent,’ ‘overriding public interest,’ ‘restriction of use of property to constitute a taking).”

Pollock provided the Commission examples where the Commission has previously used the Waiver provision.

Mosher inquired whether the Commission would like to include the examples Pollock provided in the response

Blasiak and DeHoyos responded yes

Blasiak stated there should be mention the waiver provision only applies to the local Ordinance, and does not apply to the WPA.



William F. Martin
Mayor

City known as the Town of
GREENFIELD, MASSACHUSETTS

CONSERVATION COMMISSION

Town Hall • 14 Court Square • Greenfield, MA 01301
Phone 413-772-1551 • Fax 413-772-1309
Conservation@greenfield-ma.gov • www.greenfield-ma.gov

Members:

Blasiak, John (2016)
DeHoyos, Thomas (2016)
Haro, Alex (2014)
Letourneau, Dee (2014)
Mosher, Timothy (2015)

Question 9: Under the new Ordinance you have added language in 195-14. Can you please explain what this section means and why it was added?

Draft response: “Section 195-14 was compiled from verbiage in the MACC Model Bylaw; specifically Section XIV. Relation to the Wetlands Protection Act (1st paragraph of 195-14 in revised Ordinance) and the Notes section, Item #6 (2nd paragraph of 195-14 in revised Ordinance). The Commission felt it was important to have a section explaining the relationship between the Ordinance and the WPA, which is not explicitly done in the 2001 Bylaws.”

Mosher stated lets provide the A&O Com a copy of the MACC Model Bylaw/Ordinance.

Question 10: In general, why did you take out the intentions clauses from the current Ordinance and place them outside the new ordinance provisions and thus render the language useless for enforcement purposes?

Draft response: “The intentions clauses (assuming meaning text in italics) are only included in the Jurisdiction section. Most of these clauses are nearly identical to those of the 2001 Bylaw. However, in the 2001 bylaw, the statement ‘In general, the Commission shall not permit replication of wetlands because replication does not in fact substitute for many wetlands values was removed from the intentions clause (in italics). This was done because it again suggested a contradiction (see response to #2, above; ‘shall not permit replication’ vs. ‘replication shall be permitted only’). This and other sections can be reviewed to identify areas where provisions may have been compromised by delegation of text to the intentions clauses.

Note: Sections 195-2.B.6&.7 of the 2001 Bylaw have been moved to other sections.”

Blasiak stated the intention clauses are only supposed to be rationale; they are not supposed to be enforceable elements. This needs to be clarified in the Ordinance.

Question 11: Could you clarify the role of MACC? What is this group? Why did you chose to rely on a model law written by MACC?

Draft response: “Per the MACC website (www.maccweb.org): ‘MACC is a private, non-profit 501(c)(3) organization incorporated in the Commonwealth of Massachusetts. Since 1961, MACC has created and disseminated critical education materials describing commissioner’s duties and outlining methods to help attain commission’s goals. MACC builds support for community conservation by working with agencies, legislators, the courts, nonprofits and corporate partners. MACC advocates for strong, science-based laws, regulations and policies, assists agencies in outreach efforts and serves as mentor for other conservation groups.’

MACC is funded largely from dues from its membership (which includes members of Conservation Commissions), grants and contributions, and educational programs.”



William F. Martin
Mayor

City known as the Town of
GREENFIELD, MASSACHUSETTS

CONSERVATION COMMISSION

Town Hall • 14 Court Square • Greenfield, MA 01301
Phone 413-772-1551 • Fax 413-772-1309
Conservation@greenfield-ma.gov • www.greenfield-ma.gov

Members:

Blasiak, John (2016)
DeHoyos, Thomas (2016)
Haro, Alex (2014)
Letourneau, Dee (2014)
Mosher, Timothy (2015)

All commissioners expressed they are satisfied with this response.

Question 12: My understanding is that there actually is no waiver in the state wetlands law. There are exceptions for emergency situations, but no waiver. So, if a town can only strengthen a state law, but not weaken it, how is our town able to legally put in a waiver that allows an exception to the law when the state itself does not provide for an exception to the law?

Draft response: “We assume that having the Waiver (as written) is technically legal, based on the fact that the MACC model includes it. The Commission is not sure how modifying the Waiver might result in some legal complications. Theoretically, if there is a conflict in a Conservation Commission decision with respect to the WPA, DEP should step in.”

DeHoyos stated it should be mentioned the waiver provision only applies to the local Ordinance, not the WPA.

Blasiak stated he would like the following language removed from the response, “We assume that having the Waiver (as written) is technically legal, based on the fact that the MACC model includes it.”

Letourneau stated that the response should mention that when the waiver provision was approved in 2008, the provision was vetted through a review process including legal review and approval from the Attorney General’s Office.

Pollock stated a variance from the WPA is a waiver from the requirements of the WPA regulations. A variance does not waive any requirement from the local Ordinance.

Question 13: If it is somehow legal to have this waiver, and the conservation commission chooses to recommend keeping it, would it be possible to change the language, to be much more specific about when waivers are allowed? Is it possible to allow a waiver only for ecological reasons, or to benefit the public good (being more specific about the language, of course)? Is there a downside to doing that?

Draft response: “The language could potentially be made more specific as to under what circumstances a Waiver might be invoked, and to what degree certain activities might be allowed. There are many different types of cases where a Waiver could be invoked, however, and language would need to be as specific and comprehensive as possible. The downside might be that not all foreseeable circumstances could be addressed in the language; under these scenarios where a decision cannot be made, deference to DEP (superseding order of conditions) should be stated.”



William F. Martin
Mayor

City known as the Town of
GREENFIELD, MASSACHUSETTS

CONSERVATION COMMISSION

Town Hall • 14 Court Square • Greenfield, MA 01301
Phone 413-772-1551 • Fax 413-772-1309
Conservation@greenfield-ma.gov • www.greenfield-ma.gov

Members:

Blasiak, John (2016)
DeHoyos, Thomas (2016)
Haro, Alex (2014)
Letourneau, Dee (2014)
Mosher, Timothy (2015)

Letourneau stated she would like the following sentence removed, “The language could potentially be made more specific as to under what circumstances a Waiver might be invoked, and to what degree certain activities might be allowed.”

Question 14: If the conservation commission chooses not to have a waiver, and thus cannot permit a particular land use, we discussed that the landowner has the option of going to the state to get a waiver. If a landowner can apply for a waiver from the state, and get the waiver that way, then why is it really necessary for the town to have a waiver also? Are there other reasons than to protect against a possible lawsuit?

Draft response: “Technically, under this scenario, a Waiver would not be needed. Having the Waiver would avoid this step and resultant complications/delays, and also potentially facilitate a decision for smaller projects or applicants unwilling or unable to deal directly with DEP. How much oversight DEP would have (or undertake) under these more minor projects is unknown; smaller projects permitted under a Waiver may not receive significant attention from DEP.”

DeHoyos stated the response should clarify MassDEP can issue a variance, which is a type of waiver.

Letourneau stated she would like the following sentence removed from the response, “Technically, under this scenario, a Waiver would not be needed.”

Question 15: Why should the ordinance allow wetland mitigation/replacement as a strategy when it so rarely works? Is there a better option?

Draft response: “If there is truly no alternative, replication is the only option to preserve a net amount of wetland resource area. It is not frequently an effective method, and prone to failure, but has been successful in a few cases. Success rate is often site-specific (i.e. base hydrology favorable to replication), and post-replication monitoring needs to be conducted for several years before being deemed successful. Mandating replication at higher ratios (2:1 or greater) may be viewed as a method to offset the low success rate. Restoration (reconstructing a degraded wetland in situ) tends to be more effective than replication.”

Blasiak stated he would like the second sentence removed.

Blasiak stated there should be mention that WPA requires the Commission consider replication. The Commission does not have the authority to ban replication.

Pollock will type up the edits discussed and submit the responses to the Commission for final approval. Once the responses have been approved, Pollock will submit the responses to the A&O Com.



William F. Martin
Mayor

City known as the Town of **GREENFIELD, MASSACHUSETTS**

CONSERVATION COMMISSION

Town Hall • 14 Court Square • Greenfield, MA 01301
Phone 413-772-1551 • Fax 413-772-1309
Conservation@greenfield-ma.gov • www.greenfield-ma.gov

Members:

Blasiak, John (2016)
DeHoyos, Thomas (2016)
Haro, Alex (2014)
Letourneau, Dee (2014)
Mosher, Timothy (2015)

Project Monitoring:

Green River Covered Bridge Rehabilitation, Eunice Williams Drive (DEP #168-0286):

Pollock conducted a site visit of the active construction site on April 16, 2014. Pollock took photographs of all installed erosion controls and stockpiles of earth for record.

Mosher stated that once this project is completed, the applicants need to remove all stockpiles of earth.

Stoneleigh-Burnham School, 574 Bernardston Road (DEP #168-0289):

Pollock updated the Commission, stating work has not started yet due to the winter season. The applicant may wait until the end of summer to start the work because of the 401 Water Quality Certificate (WQC). The applicant has a time of year restriction on the work within the stream and the pond. The applicant may do the equestrian work earlier. The applicant will notify the Commission before any work commences.

Enforcement Updates/Possible Violations:

208 Mohawk Trail (old Candlelight Hotel): Pollock sent the samples to an analytical laboratory for testing. After Barlow and the Commission receive the test results, Barlow will submit a restoration plan explaining how, when, and where all piles will be disposed.

Correspondence:

2014 Post-Emergent Vegetation Management, Pan Amy Railways, Inc.: Pollock received a formal notification, in accordance with the Pesticide Board Regulations 333 CMR 11.07 and MGL Section 6b of Chapter 132B, stating Pan Amy Railways, Inc. will commence with a post emergent herbicide application program on or after May 1, 2014 and conclude on or about July 1, 2014. A mixture of herbicides Aquaneat, Escort XP, and Oust Extra shall be applied with low-pressure spray application by a track mounted hy-railed truck. The purpose of the application is to control nuisance vegetation in the ballast portion of the railroad right-of-way and around switches and signals. A copy of the Yearly Operational Plan which includes Material Safety Data Sheets, a Department of Agricultural Resources approved fact sheet and a sample label for each herbicide is available for download on the website <http://railroadvmpyop.wordpress.com/about/>.

Site Visit Scheduling:



William F. Martin
Mayor

**City known as the Town of
GREENFIELD, MASSACHUSETTS**

CONSERVATION COMMISSION

Town Hall • 14 Court Square • Greenfield, MA 01301
Phone 413-772-1551 • Fax 413-772-1309
Conservation@greenfield-ma.gov • www.greenfield-ma.gov

Members:

Blasiak, John (2016)
DeHoyos, Thomas (2016)
Haro, Alex (2014)
Letourneau, Dee (2014)
Mosher, Timothy (2015)

Next Meeting:

7:00 PM on Tuesday, May 13, 2014, at the Greenfield Department of Planning and Development;
114 Main Street

Adjournment:

**MOTION: Moved by Letourneau, seconded by Blasiak, no further discussion and voted 4-0-0
to adjourn the meeting at 8:55 PM.**

Respectfully Submitted,

Maureen Pollock
Assistant Planner & Conservation Agent

Tim Mosher
Vice-Chair