

**CONSERVATION COMMISSION  
MINUTES of MEETING  
Tuesday, March 26, 2019  
TOWN HALL ANNEX, 39 CENTRAL STREET  
APPROVED: 5/7/2019**

Present: Chair Arthur Page, Vice Chair Curt Turner, Judy Kehs, Daniel Shinnick  
Sam Streiff and Howard Vogel  
Absent: Robert Garner  
Attending: Brent Baeslack, Conservation Agent

**Opening Statement:** Authorized by Wetlands Protection Act, Town of Rowley Wetlands Protection Bylaw, and the Stormwater Management and Erosion Control Bylaw. Meeting convened 7:30 PM (all Legal ads were read to open new agenda items at time noticed).

**Administrative:** Commissioners reviewed and authorized the payroll and reimbursement of various Vendor Bill requests.

**Acceptance of Minutes:** After the Commission reviewed the minutes, Vogel moved to accept the Minutes of March 5, 2019. Streiff seconded the motion and the motion passed unanimously.

**Acceptance of Minutes:** After the Commission reviewed the minutes, Shinnick moved to accept the Minutes of October 25, 2011. Kehs seconded the motion and the motion passed unanimously.

**Acceptance of Minutes:** After the Commission reviewed the minutes, Turner moved to accept the Minutes of November 15, 2011. Streiff seconded the motion and the motion passed unanimously.

**Discussion:**

**285 Central St. (Map 28, Parcel/Lot 6) Stephen B. Comley II** - Forest cutting landing and access; is it new activity in 100' Buffer Zone to BVW that needs a permit or qualified agricultural exempt for "normal maintenance and improvement" 310 CMR 10.04 (b.).

Mr. Stephen B. Comley II and Mr. Nate Comley were in attendance to address the Commission regarding the placing of a landing area to be used in conjunction with forestry work being proposed on the property. Page addressed Mr. Stephen Comley regarding the Chapter 61A status of the property. Mr. Comley advised that the property was under Chapter 61A and that two cutting plans had been denied by the Mass. Department of Conservation & Recreation (DCR). He stated that he would no longer be working with the DCR, planned to keep the cutting under the 50 cords that would make him exempt from filing, and had only provided documentation to the Commission office as a "courtesy". He expressed that his attendance at the meeting was to "educate" the Commission on the property exemptions, the work being conducted, and his attendance was also a "courtesy". He believed all appropriate State and local departments had been advised of the proposed work; and he had received no

negative feedback. Mr. Comley explained the landing fell under “normal maintenance and improvement” exemptions in the regulations. He addressed the verbal Cease-and-Desist Order (Order) issued by Agent Baeslack and expressed his ire at the Police being involved to have the Order presented to him. He felt the Order should have been issued in writing and actually believed it should not have been issued at all because the work was not in violation of any State or local regulations or Bylaws. Agent Baeslack stated that the Chapter 61A designation on the property did not have any bearing on the issue before the Commission. He explained that on numerous occasions he had been told there was a previous cart path in the area where the landing was being proposed, but despite many requests for plans showing this path, none had been provided. He advised that Mr. Comley had stated on numerous occasions that he would not abide by the verbal Cease-and-Desist Order. Mr. Comley again reiterated that plans had been provided to the Conservation Office and accused Agent Baeslack of lying about having them on record. Agent Baeslack stated he had gone back to plans filed in 1956, 1983, and 2013 which did not show any access or landing in the area which had been the Cease-and-Desist Order focus. He explained the landing had been on the two recently filed forest cutting plans which had been denied, and that Director Jennifer Fish of the DCR Service Forestry Program had advised that this was possibly an issue that the Conservation Commission should handle. Agent Baeslack recommended that a Request for Determination of Applicability be filed so the Commission could make a determination on whether the landing was exempt or would be considered “new activity”, which would require further Commission review. Mr. Comley outlined a filing timeline of the various applications submitted to both State and local departments regarding the work to be done on this portion of the property. He showed an approved Forestry Management Plan dated July 30, 2018, and signed by the DCR, which he indicated had been forwarded to the Commission by certified mail. He explained that the Forestry Management Plan was good for 10 years. He stated that the DCR did not reply to the cutting plans within the required ten (10) day period which made their subsequent denial void. He reviewed the regulation exemptions and believed the proposed work fell under both the State and local exemption clauses. Mr. Comley again explained he had only filed the cutting plan as a “courtesy” to the State, the Town, and his neighbors to keep them informed of the work being conducted; it would be under 50 cords, which would make it exempt from State approval. He explained that the landing was needed to stay out of the stream and for access to the cut wood. Mr. Comley felt that because a Forestry Management Plan had been filed he was exempt from the jurisdiction of the Conservation Commission under both State and local regulations. Mr. Comley questioned Agent Baeslack’s authority to issue a verbal Cease-and-Desist and the Police involvement. He asked if the Conservation Commission was aware of the verbal Order. Both Turner and Page stated they had been made aware of the landing issue and the verbal Cease-and-Desist Order, but the matter had not been addressed at a meeting. Mr. Comley questioned Agent Baeslack’s contact with the Highway Department regarding the road access and advised there was an issued permit. Agent Baeslack stated he was attempting to locate a plan showing there had been a path/landing already in use, which Mr. Comley felt was intrusive and unnecessary. Mr. Comley advised he had met his neighbor, Mr. Joseph Sousa, who had been dumping trash in the wetlands and on the Comley property. He had advised Agent Baeslack of this activity and provided pictures. Agent Baeslack stated that no inspection had been completed by the Conservation Office. Mr. Comley accused Agent Baeslack of lying, urged

the Conservation Commission to “distance” themselves from the Agent, and threatened legal action against Agent Baeslack and the Conservation Commissioners if Agent Baeslack did not either resign or was terminated within two weeks. He stated it was his belief that the Town had brought in an “outsider that has gone rogue” and he “trusted his neighbors on the Board”. Mr. Comley reiterated he believed that Agent Baeslack was acting unprofessionally and with malice toward the Comley family. Vogel asked Mr. Comley if he felt there was a way to resolve the issue. Mr. Comley said “No, due to the history going back 20 years”. Page asked if Mr. Comley would agree to not filling the stream if the Cease-and-Desist was lifted. Mr. Comley said he could not make that promise. Mr. Nate Comley asked for a formal letter regarding the meeting. Before leaving the meeting, Mr. Comley again asked for Agent Baeslack’s resignation and for disciplinary action. Page asked if the Commission would rescind the verbal Cease-and-Desist Order. Agent Baeslack informed the Commission that a written Order had not been issued because Mr. Comley had stated on numerous occasions that he would not abide by the verbal Cease-and-Desist Order and had provided no documentation relating to the path existence, which had been focus of the Cease-and-Desist Order. Page asked for a vote to rescind the verbal Cease-and-Desist Order.

Streiff moved to rescind the verbal Cease-and-Desist Order. Vogel seconded the motion and the motion passed with five (5) yea votes and one (1) present vote.

Turner then went on record stating he did not believe that Agent Baeslack harbored any ill will toward those presenting that evening. He had worked with Agent Baeslack on a number of matters over the years and Agent Baeslack was a “very sober, serious, dedicated person to conservation values” and has spent “enormous” amounts of time working on his own time to maintain the Town’s conservation areas. Agent Baeslack is one of the “most competent” agents in the State. Kehs stated for the record that she agreed with Turner and noted that she voted “present” on the last motion. She asked to go on record that she trusted Agent Baeslack.

**New Notice of Intent application at 51 Oyster Point Road (Map 27, Parcel/Lot 90) Raffi Kassabian and Lisa Kennedy:** Proposed construction of a subsurface sewage disposal system possibly within the 100' Buffer Zone to Salt Marsh, Coastal Bank, ACEC, and within the ACEC, Land Subject to Coastal Storm Flowage. Mr. Dan Johnson of Domestic Septic Design was present to address the Commission on behalf of the applicant. The Commission reviewed Agent Baeslack’s Meeting Notes dated March 26, 2019 with recommendations for special conditions. Agent Baeslack recommended the issuance of the Determination be contingent upon receipt of revised plans based on discussions with Mr. Johnson at the pre-meeting site visit earlier that day. Mr. Matt Jackson, an abutter, expressed concerns about the system being placed in the access to his property, and if the work and the inactive on-site well would have any effect on his well. The Commission advised that this would be a question for the Board of Health.

Streiff moved to close the hearing and issue an Order of Conditions DEP #63-0686 with special conditions contingent upon receipt and approval of revised plans within fourteen (14) days. Vogel seconded the motion and the motion passed unanimously.

**New Notice of Intent application at Right of Way (#124) Haverhill Street (Map 15, Parcel/Lot 97) by Town of Rowley Water Department:** Proposed improvements to water distribution system piping and valves located in the public right of way possibly within the 100' Buffer Zone to Bordering Vegetated Wetlands. Mr. Ryan Neyland of Tata & Howard, representing the Rowley Water Department, was in attendance to answer questions from the Commission. The Commission reviewed Agent Baeslack's Meeting Notes of March 26, 2019, with the recommendations for special conditions and suggested plan revisions. He also recommended that the Commission exempt the Town from filing the Order of Conditions due to the Right-of-Way location.

Turner moved to close the hearing and issue an Order of Conditions DEP #63-0687 with special conditions contingent upon receipt and approval of revised plans within fourteen (14) days. Shinnick seconded the motion and the motion passed unanimously.

**Continued Notice of Intent application DEP #63-685 at 548 Wethersfield Street (Map 11, Parcel Lot 4) by William Herrick, Trustee Lucia Herrick Realty Trust:** Proposed exploratory test piles installation and extraction possibly within the 200' Riverfront Area of the Mill River, 100' Buffer Zone of a Bordering Vegetated Wetland, and Bordering Land Subject to Flooding. Mr. Bill Manuell of Wetlands and Land Management, and Mr. Ed Boyle of Landing Company were in attendance on behalf of the property owner to give further information on the process for the exploratory test piles. Mr. and Mrs. William Herrick were also in attendance. Mr. Manuell advised the Commission that permission had been received to temporarily breach the beaver dam in order to lower the water level so machinery can be brought onto the site. He advised the pile number had been lowered from fourteen to seven to avoid any driving off the roadway. The Commission reviewed Agent Baeslack's Meeting Notes #2 dated March 26, 2019, with recommendations for special conditions.

Shinnick moved to close the hearing and issue an Order of Conditions DEP #63-0685 with special conditions as discussed. Kehs seconded the motion and the motion passed unanimously.

**Continued Notice of Intent application DEP #63-683 at 41 and 49 Emily Lane and land off Emily Lane (Map 9, Parcel 23, Lots 24 and 25) The Tompkins-Desjardins Trust, Bruce Tompkins, Trustee:** Proposed construction of a single family residence with relocation of woods road possibly within 100' Buffer Zone to Bordering Vegetated Wetlands, 100' Buffer Zone to Isolated Vegetated Wetland, Intermittent Stream, Bank, Bordering Land Subject to Flooding and Land under Waterway. Agent Baeslack submitted a request dated March 19, 2019, from Mr. James Decoulos of Decoulos and Associates on behalf of the property owners to continue this agenda item to the meeting of April 16, 2019.

Vogel moved to continue the hearing as requested by the applicant's to the meeting of April 16, 2019. Shinnick seconded the motion and the motion passed unanimously.

**Certificate of Compliance Request(s):**

**New Request for Certificate of Compliance DEP #63-602 at 201 Boxford Road (Map 2, Parcel/Lot 22) Mary Hubbard** – Mr. Tyler Ferrick of DeRosa Environmental, representing the owner, was in attendance to answer questions from the Commission.

Turner moved to issue a Complete Certificate of Compliance with no ongoing conditions as discussed. Streiff seconded the motion and the motion passed unanimously.

**New issuance of a complete Certificate of Compliance #63-152 and Recension of an “invalid” Certificate of Compliance for Land off Wethersfield St. aka Todds Lane Map 23, Parcel 84, Lots 1-3, 5-6) never recorded** – Agent Baeslack advised the Commission that a Certificate of Compliance had been issued stating that the Order of Conditions was invalid and work had never commenced but work had been done on the road now known as Green Needle Lane. The work had been completed and a complete Certificate of Compliance should have been issued. Research at the Registry of Deeds showed that the Certificate of Compliance had not been filed. He requested that the Commission rescind the “invalid” Certificate of Compliance and issue a complete Certificate of Compliance. Agent Baeslack also requested authorization to file both the original Order of Conditions and the new Certificate of Compliance with the Registry of Deeds. The Commission agreed to pay for the filing of the documents with the Registry of Deeds.

Kehs moved to rescind the “invalid” Certificate of Compliance. Shinnick seconded the motion and the motion passed unanimously.

Vogel moved to issue a complete Certificate of Compliance #63-152 with ongoing conditions as discussed. Streiff seconded the motion and the motion passed unanimously.

Streiff moved to file the Order of Conditions and Certificate of Compliance with the Registry of Deeds at the Commission’s expense. Shinnick seconded the motion and the motion passed unanimously.

**Status Reports: Permits & Enforcement**

**New Enforcement Order at 43 Daniels Road (Map 8, Parcel/Lot 51) rear northeast section Harold Ricker Realty Trust, Debra A. Ricker, Trustee:** Cutting of vegetation (altering), grading and dumping of fill and earth disturbance within the 100’ Buffer Zone of Bordering Vegetated Wetlands and failure to obtain proper permit(s) and failure to utilize erosion controls as required. Trustee Debra Ricker of Harold Ricker Realty Trust, was in attendance to answer questions from the Commission. Ms. Ricker advised that no one had been authorized to do any work on the property and she was in the process of initiating eviction proceedings to have the party living there removed. She asked if the Commission would allow for more time for her to address the possible violations. Agent Baeslack explained that since contact had been made and there had been some progress, the Commission would coordinate with her to get the situation resolved. Mr. Thomas Riquier, a

property abutter, provided photographic proof of the work being done on the site. Ms. Ricker stated that she had seen the on-site machinery and had immediately gone to the Police to provide them with a copy of the 14-day eviction notice. No further action is needed at this time.

**Notice of Pending Sale Pikul Property various parcels subject to Chapter 61A**

**Agricultural and Horticultural Land** – Agent Baeslack advised the Commission of a Notice of Sale but not a conversion from agricultural use and a Request to waive Right of First Refusal relating to eight land parcels. He advised there are Agricultural Preservation/Conservation Restrictions on the property which requires that a purchase offer must be submitted prior to any sale. He was not sure if the request for a Right of First Refusal Waiver and the purchase offer were the same and asked if the Commission would allow more time to determine what the procedure should be to respond to the pending sale. The Commission concurred that this matter should be tabled at this time.

**Adjournment:**

Accomplished at 9:45 PM by a motion made by Vogel. Turner seconded the motion and the motion passed unanimously.

Submitted by Brent Baeslack, Conservation Agent