

**APPROVED**



Mayor Joseph C. Sullivan

**Department of Planning and Community Development**

Kelly Phelan, Conservation Planner

90 Pond Street

Braintree, MA 02184

781 794-8233

**CONSERVATION COMMISSION  
MEETING MINUTES  
THURSDAY, FEBRUARY 12, 2009 7PM**

**FLETCHER HALL – TOWN HALL**

**PUBLIC HEARING**

**DEP FILE # 8-589**

**APPLICANT: Algonquin Gas Transmission, LLC**

**LOCATION: Segments 1 and 2**

Members Present: Patrick Flynn, Chair  
Gus Murphy  
Kate Waldron  
Matthew Hobin  
Dan McMorrow  
Gail Feldman  
Alan Weinberg

Staff: Kelly Phelan

Algonquin submitted a letter requesting the public hearing be continued to March 12, 2009.

Motion by Mr. Weinberg, second by Ms. Feldman to continue to March 12, 2009.

Vote: 7-0.

**APPROVED**

**PUBLIC HEARING  
DEP FILE # 8-591  
APPLICANT: RMT Braintree, LLC  
LOCATION: 531 Pond Street**

Members Present: Patrick Flynn, Chair  
Gus Murphy  
Kate Waldron  
Matthew Hobin  
Dan McMorrow  
Gail Feldman  
Alan Weinberg

Staff: Kelly Phelan

Attorney Jeff Tocchio, representing RMT Braintree, and Ryan McCourt of RMT Braintree, were present. Attorney Tocchio explained that as part of several appeal processes on a previous application, DEP had required RMT Braintree to file a retroactive Notice of Intent for work to restore a culvert. He presented a plan depicting the layout of the property and location of a culvert under an old gravel/dirt road which connects two wetland systems. He explained that the former Planning and Conservation Director and the Conservation Commission had requested RMT Braintree (Mccourt) conduct a specific list of activities to maintain the culvert, as specified in two letters: one of January 30, 2006 and one of March 2, 2006. The request was made in response flooding issues raised by an abutter. Mr. Tocchio said that in March of 2006, RMT Braintree did the work requested and their site manager, Paul Trebiano was present as well as staff from the town Engineering/DPW and Mr. Lapolla.

Attorney David Kellem, representing Roger and Darlene Aiello, the upstream abutters to the property stated that it was not the Aiello's who initially made the complaint about flooding but another abutter. Mr. Kellem stated that Mr. Aiello felt that the maintenance activity on the culvert made it function less well than before it was restored. He stated that the cart path was raised which caused flooding and backflow onto the Aiello's property. He also said that proper engineering and pre and post work calculations should have been done.

Mr. Aiello stated that the headwall constructed around the culvert should come out so that water can flow over the path as it did before the work and that the road above the culvert had been raised 18".

Mr. Flynn asked if he had presented this information to DEP. Mr. Kellem stated that DEP had set aside the culvert issue to be dealt with in this Notice of Intent process.

Mr. Flynn asked if there had been a manipulation of the cart path height. Mr. Tocchio stated that Mr. Lapolla had grades shot by the engineering department but found no evidence of the path being raised.

Mr. Flynn asked if the issue was a matter of inches. Mr. Aiello said 18" in one spot. Mr. Kellem said the situation is resolvable; the culvert could be improved to increase flow, perhaps with a bigger pipe.

Mr. Weinberg asked if there was flooding before the pipe was removed and reset or if the flooding began after the pipe was reset. Mr. Aiello said there was flooding before but not like it is now.

Ms. Feldman stated that the Commission has no engineering information and that they are concerned with environmental issues, not issues between neighbors.

Mr. Tocchio said that if the size of the culvert were to be increased, the rest of the drainage system would have to be increased. Most of the drainage system is on the property of others and the applicant has no control over it.

Ms. Feldman asked what proof is there that the work was done correctly. Mr. Tocchio replied that the Commission has the letters of the DPW and Mr. Lapolla.

Mr. Flynn asked Mr. Aiello why he is asking the Commission to look at the culvert if the size of the culvert had not been changed. Mr. Kellem replied that because the culvert was set differently (with the headwall) there is less water flow.

Mr. Weinberg suggested asking the Town Engineer to look at the issue and determine if the headwall and pipe are working correctly.

Mr. Aiello showed the Commission some of the photographs previously submitted to the Commission.

Mr. Flynn asked Mr. Tocchio if they disputed that the water went over the road in the past. Mr. Tocchio said that it had to go over to the road because the pipe was clogged.

Mr. Flynn asked for other public comment. There was none.

Ms. Waldron asked Mr. Aiello if he believed the culvert work was the sole reason for the flooding. Mr. Aiello replied that it was also because they built the road up and haven't cleaned the drainage channel. Mr. Aiello said DEP said the headwall should come down. Staff noted that she had not seen anything from DEP stating that. Mr. Aiello said it was a verbal statement.

Motion by Mr. Weinberg, second by Ms. Feldman, to continue the hearing until March 12 and have the town engineer see if the pipe is working as designed.

Discussion continued.

Mr. McCourt stated that he was concerned that statements were made which are not part of the record.

Mr. McMorrow stated he was concerned that there was no proof from the abutter on the flooding issue.

Mr. Kellem stated he did not know if the applicant had done exactly what the town asked and that, in any case, they are responsible for it.

Mr. Weinberg restated his motion to ask the town engineer to verify in writing that there is no problem with the headwall and to check the elevation of the cart path above the culvert and continue to March 12<sup>th</sup>. Second by Ms. Feldman. Vote: 7-0.

Mr. Tocchio asked for a requirement that neither party be able to contact the town engineer to advocate for their position. Mr. Flynn asked both parties not to contact the town engineer. Mr. Aiello stated, for the record, that he had talked to John Morse that day but would not talk to him again about the issue.

Motion by Mr. Weinberg, second by Ms. Feldman, to continue the hearing until March 12 and have the town engineer see if the pipe is working as designed. Vote: 7-0.

## **OTHER BUSINESS**

Members Present: Patrick Flynn, Chair  
Gus Murphy  
Kate Waldron  
Matthew Hobin  
Dan McMorrow  
Gail Feldman  
Alan Weinberg

Staff: Kelly Phelan

### **Stormwater Operation and Maintenance Plan Monitoring**

The Commission would like staff to create a database of sites with Operation and Management Plans, send a letter to those people requesting their records be submitted and make inspections of those sites.

### **Violation Notice to 11 Adams St.**

Staff drafted a violation notice to the Mobil on the Run gas station/store at 11 Adams St. They have two gates in the fence surrounding the site. They have been using the gate to push snow into the Monatiquot River and its tributary. The letter directs them to replace the swing gates with sections of fence that do not open by February 26, 2009.

Motion by Mr. Weinberg, second by Mr. Hobin. Vote: 7-0.

### **Approval of Minutes**

Motion by Mr. McMorrow, second by Ms. Waldron to approve the minutes of January 22, 2009. Vote: 7-0.

Motion by Mr. McMorrow, second by Ms. Waldron to adjourn the meeting at 9:10pm.  
Vote: 7-0.