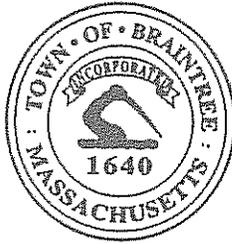


**APPROVED**



Department of Planning and Community Development

Kelly Phelan, Conservation Planner

90 Pond Street

Braintree, MA 02184

781 794-8233

Mayor Joseph C. Sullivan

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

**FLETCHER HALL – TOWN HALL**

**PUBLIC HEARING**

**DEP FILE # 8-592**

**APPLICANT: Stephen Zeboski/20 Mill Lane Trust**

**LOCATION: 20 Mill Lane**

Members Present: Patrick Flynn, Chair  
Gus Murphy, Vice-Chair  
Gail Feldman  
Alan Weinberg  
Matt Hobin

Staff: Kelly Phelan

Mr. Flynn opened the public hearing.

Al Trakimas from Sitec Engineering discussed their response to the most recent staff report. They paid the outstanding fee for the riverfront area. They provided a copy of the LSP report to staff. They revised the Stormwater Operation & Maintenance Plan to include the inspection/reporting log prepared by staff. They included access for the DPW to remove debris from the river, as brought up by an abutter at the last public hearing. They included a guardrail at the sediment forebay area to prevent snow from being pushed into the area. They revised the planting plan to eliminate ironwood and replaced it with red maple, silver maple and green ash.

Mr. Flynn asked how wide a buffer was proposed. Mr. Trakimas replied 5-6' feet at the narrowest area and about 40' at the sediment forebay area and noted it is an improvement over the existing condition which is pavement to the bank.

Mr. Weinberg asked about the planting plan and expressed concern that the root system of the larger tree species would impact the bank. Staff noted that she had suggested ironwood be eliminated because it is slow growing and does not get taller than 20-30 feet and a species which would provide shading to the river would be beneficial. Staff noted that she had been looking for a restoration plan to restore a buffer area along the river and that this was the latest version of achieving such a plan.

Mr. Flynn asked what protection there was between the pavement and the river since the buffer is so narrow. Mr. Trakimas replied that there is concrete curbing provided along the edge of the pavement and runoff is directed toward the stormwater treatment system.

Motion by Mr. Weinberg, second by Mr. Hobin to continue to the March 26 meeting.  
Vote: 5-0.

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

Members Present: Patrick Flynn, Chair  
Gus Murphy, Vice-Chair  
Gail Feldman  
Alan Weinberg  
Matt Hobin

Staff: Kelly Phelan

Mr. Flynn opened the public hearing.

Matt Long, Wetland Scientist, representing RMT Braintree, noted that the hearing had been continued in order to receive input from the town Engineering Department. Mr. Long noted he had received a copy of the letter from the Assistant Town Engineer, John Morse, which stated that culvert was not the cause of flooding. Mr. Long also noted that the culvert was reset at the request of the town.

David Kellem, attorney for abutter Roger Aiello, stated that the letter from the Engineering Dept. did not answer the question of whether the culvert area was raised. In the letter, Mr. Morse noted the grade of the road and that the culvert works fine in normal flow but no determination at high flow conditions was made.

Mr. Kellem provided the Commission with copies of a staff report from staff, Kelly Phelan, which was issued June 7, 2007 to the Commission at the time. Paragraph 3 of the report notes that the rip rap around the pipe is higher than the invert of the pipe and notes the 10 year floodplain height. The recommendation of the report was for the Commission to request the applicant reset the rip rap to allow water to flow over the path during high water events.

Staff noted that it is obvious that the rip rap is higher than pipe. The recommendation was made in an attempt to provide a resolution to the situation but that the recommendation had not adopted by the Commission.

Mr. Kellem also noted a memo from Kelly Phelan to the town Building Department dated June 18, 2007. In that memo, staff discussed removal of debris from the stream channel and that the Commission had directed McCourt to file a Notice of Intent for activities including silt removal and installation of a larger culvert.

Staff replied that decision of the Commission's had been appealed to DEP. While the appeal was pending, the Commission went ahead in January of 2008 and issued an emergency certification to allow for the removal of debris from the stream. Staff met

representatives from RMT Braintree on the site to determine what should be removed. No debris was identified on the cart path side of the channel. Tires had been observed in the channel on the Roc Sam Rd. side of the marsh but RMT Braintree did not have access to that area and the property line has been in dispute. Staff asked the owner of the 77 Roc Sam property to remove the debris because the only way to access it was from his site and would check in with him to make sure it was completed.

Mr. Long stated that the letter from Mr. Morse stated that he could not determine if the headwall was lower or higher than before the maintenance activity. He also stated that the work was done under the eye of the town DPW and planning director, Peter Lapolla. RMT put the pipe back the way the town directed. Mr. Long went on to say that letter did address flooding; it states that the culvert work has no negative effect on upstream flooding. Mr. Long also said that removing material above the pipe would leave the pipe exposed. Mr. Long said that RMT Braintree did what they could to remove debris from the stream without resorting to excavation and that this Notice of Intent was filed only to address DEP's request for a retroactive application for the culvert work.

Ms. Feldman asked who was responsible for maintenance because debris is an ongoing problem. Mr. Long replied that it was a legal question for property owners.

Mr. Weinberg stated that the filing was for maintenance of the pipe and that was all the Commission could act on. He said the Commission could have conditions for the maintenance of the pipe.

Mr. Murphy stated he was on the Commission when this issue came up before and that there were conditions on cleaning out the stream. Staff explained the issue accessing the area where the tires were observed- the Roc Sam side of the property. Mr. Kellem stated he had a photo showing a tire near the culvert.

Mr. Flynn asked for public comment.

John Wells of Regis Road asked where the stormwater from this site goes. Staff replied that it drains to the street drainage system under Roc Sam and Johnson Lane, crosses under Pond Street and heads toward Richardi Reservoir. Mr. Wells noted that there are state and federal regulations which this site should come under. He looked at these online and found 14 companies in Braintree that have stormwater plans. He asked if they were going to be storing and refueling vehicles would they come under these regulations. Staff replied that the NPDES permits apply to large construction sites of over an acre of disturbance. This application does not include new development or construction and would not trigger the requirement for a NPDES permit.

Mr. Long further responded to Mr. Wells question and said they would check if the site fell under the EPA's industrial site regulations. He went on to say that they did not trigger the NPDES construction requirement because they weren't proposing construction. Their proposal was only about the one culvert.

Mr. Kellem stated that Mr. Long said the culvert work replaced the headwall but there was not a headwall there before. Mr. Long agreed that there was no headwall there before but that it was put in at the request of the Commission.

Mr. Kellem said that the Notice of Intent is for more than maintenance of the pipe, it was for the work which was actually done, which includes a headwall and raising the grade of the path above the pipe and that engineering is needed to support this.

Joe Vanelli, from Regis Rd., stated the problem originally started because of a berm which constructed which was 6-7 feet long and 3 feet high. A hole was cut in the berm to relieve flow. The berm was then taken down.

Ms. Feldman stated that it seems there is a much bigger problem than the culvert but it seems that the applicant did what the Conservation Commission told them do.

Mr. Weinberg repeated the last paragraph of the memo from the Town Engineer which states that the culvert work does not have a negative affect on upstream flooding. Mr. Weinberg stated he understood upstream flooding to be the issue.

Motion by Mr. Weinberg to continue the hearing to March 26.

Mr. Tocchio, attorney for RMT Braintree, asked about the purpose of continuing since the memo from the Engineering Department appeared to answer the question asked at the last hearing. Mr. Tocchio asked if conditions were needed since the work was already done. Mr. Tocchio also said the decision would probably be appealed to DEP. Mr. Weinberg replied that there were no draft conditions ready so they couldn't close. Staff said she had not prepared draft conditions because the work was already done and she didn't see any conditions to write. Mr. Weinberg replied that it is appropriate to write conditions to ensure the maintenance of the pipe is worked on and an inspection plan is followed.

Mr. Weinberg's motion seconded by Ms. Feldman. Vote: 5-0.

**PUBLIC HEARING**  
**DEP FILE # 8-589**  
**APPLICANT: Algonquin Gas Transmission, LLC**  
**LOCATION: Segment 1 & Segment 2**

Members Present: Patrick Flynn, Chair  
Gus Murphy, Vice-Chair  
Gail Feldman  
Alan Weinberg  
Matt Hobin

Staff: Kelly Phelan

Staff noted receipt of a letter from Algonquin requesting a continuance of the public hearing to the first meeting in June to allow them additional time to negotiate with their suppliers.

Motion by Mr. Murphy to continue the public hearing to June 11, second by Ms. Feldman.  
Vote: 5:0.

## **OTHER BUSINESS**

Members Present: Patrick Flynn, Chair  
Gus Murphy, Vice-Chair  
Gail Feldman  
Alan Weinberg  
Matt Hobin

Staff: Kelly Phelan

### **Presentation by East Middle School Students on Porous Pavement**

Mr. Flynn noted that these students did this presentation for the School Committee and the Mayor earlier in the year. Bill Glover, sixth-grade science teacher at the Middle School noted the students had used the school parking lot in their study of hydrology and determined how much rain water runs off the parking lot and how to prevent the negative impacts of that. Their research led them to porous pavement.

The students presented a Powerpoint slide show on the use of porous asphalt pavement. The benefits include recharge to groundwater and significant reduction in the amount of sand or salt needed in the cold weather since the precipitation is absorbed into the asphalt. Also, pollutants are filtered from the water as it passes through the layers of gravel and soil to reach the groundwater.

### **Vegetation Management Plan**

Daryn Brown, Braintree Golf Course Manager, presented a revised copy of the Vegetation Management Plan (VMP) for the Town's Right of Ways for the Commission's approval. Mr. Brown worked with a consultant to revise the Vegetation Management Plan which had been lacking in the area of integrated vegetation management.

The VMP provides a general outline of the program for the next five years. It includes steps such as sweeping, brush cutting, mowing and herbicide treatment to control weed growth in high visibility Right of Way areas. It is expected that herbicide may be applied when leaf tissue of crabgrass or other weeds first emerge to provide control for most, if not all, of the growing season and save the man hours involved in weed whacking. Application will occur in early morning hours by a few men with handheld or backpack sprayers.

The VMP needs to also be approved by the Board of Health and state VMP panel and includes a notification and public hearing process.

A Yearly Operational Plan will also be developed with maps of specific areas to be managed. Staff will work with Mr. Brown to identify wetlands within 100' of those areas and include those in the Yearly Operational Plans.

Mr. Flynn noted that he is experienced with the VMP process in his former capacity with the state Department of Conservation and Recreation. Mr. Flynn noted that it is a much more efficient way to manage vegetation.

Motion by Mr. Weinberg, second by Ms. Feldman, to accept the Vegetation Management Plan by Daryn Brown. Vote: 5-0.

### **Aquatic Weed Treatment**

Staff requested quotes from three companies providing treatment of aquatic weeds. Two quotes were received, with Aquatic Control Technologies providing the lowest quote for the requested services, which includes treatment of up to 30 acres of Sunset Lake for aquatic weeds. Staff noted she included the provision that someone from the town be present during the pre and post inspection to determine the treatment area and success of treatment. Also the quote includes the consultant's attendance at a public hearing. The Planning Department will be the applicant for a new Notice of Intent for this work, because the existing Order of Conditions is over 14 years old.

Mr. Flynn noted the weeds are a symptom of a larger problem which is that the lake is eutrophic. Staff agreed, noting that the lake is shallow to begin with but that several untreated discharges of stormwater flow into the lake and contribute pollutants and sediment. Staff is working to address the two most obvious of those discharges with some grant funding. Mr. Flynn and Ms. Feldman noted that restoring the quality of Sunset Lake was a long-term goal for the Commission.

### **Wetland Bylaw/Ordinance Discussion**

Postponed to the March 26 meeting.

### **Approval of Minutes**

Motion by Mr. Murphy, second by Mr. Hobin, to approve the minutes of February 26, 2009. Vote: 5-0.

### **Motion to Adjourn**

Motion by Mr. Weinberg, second by Ms. Feldman, to adjourn at 8:55 pm. Vote: 5-0

Minutes prepared by Kelly Phelan