

MINUTES
Regular Meeting
October 27, 2009

Members Present: Ms. Napier, Mr. Horrigan, Ms. Fitch, Mr. Dirienzo and Ms. O’Conner
Alternates Present: Mr. Smoliga and Ms. Steers
Others Present: Mr. Kellerman, Mr. McDonald, Ms. Henry, Mr. Neff, Mr. DiVesta and Tammy McVey-Camilleri of Voices

Mr. Dirienzo called the meeting to order at 7:30 P.M.

SEATING OF MEMBERS

Chairman Dirienzo seated members Horrigan, O’Conner, Fitch, Napier and Dirienzo.

APPROVAL OF MINUTES – September 22, 2009

The approval of minutes from the Regular Meeting of September 22, 2009

MOTION: To approve the minutes of the September 22, 2009 Regular Meeting. By Ms. O’Conner, seconded by Ms. Napier and passed 4-0-1. Mr. Dirienzo abstained.

COMMUNICATIONS WITH THE PUBLIC

Mr. Dirienzo explained that upon the request of the First Selectman this new section has been added to the agenda. This will allow for comments and questions from the public.

WRITTEN COMMUNICATIONS

Letter from Erika Ketchum – 10/21/09

Ms. Steers explained that the Conservation Commission has been compiling the sightings of the eastern box turtles over the course of the past 10 years. The letter from Erika Ketchum reports their findings to the DEP.

DEP Training Program

Mr. Dirienzo explained that this training program is offered to commission members. If all three courses are taken within the same year, members will receive their certification. The cost of the program will be paid for by the Town of Roxbury.

CACIWC Environmental Conference

Mr. Dirienzo reported that all commission members are invited to attend the CACIWC annual meeting.

WEO REPORT

Mr. Dirienzo reviewed the WEO report with the Commission.

NEW BUSINESS

Laufer/360 Southbury Road – Driveway improvements

Mr. Neff presented a map entitled Driveway Improvement Plan dated 10/21/09. He explained that the applicants have drainage and freezing issues with the existing paved driveway. He proposed a swale on both sides of the driveway to allow for infiltration. Additionally, there is difficulty turning into the driveway; therefore, he proposed a widening of the driveway apron by 10 feet.

Mr. Neff explained that there are two man made ponds and a watercourse that flows under the driveway. Approximately five trees will be cut along the wall; however, there will not be any disturbance to the wall. 30 to 40 yards of material will either be taken off site or deposited in the nonregulated area. Ms. O’Conner and Ms. Steers agreed to do the site walk.

Town of Roxbury/South Street - Maintenance and repairs of culverts

Doug DiVesta distributed photos of the three culverts in need of repair and noted their locations on the map. He explained that they would like to repoint the stone of the first culvert, which is off of Jacks Brook. The work will be done by hand. He noted that they would like to put rip-rap on the outlet side to stabilize the second culvert, which is just before Squire Road. They would like to reform the concrete. Any digging will be done by hand. He agreed to utilize a net to prevent concrete from passing into the brook. The third culvert located north of Flag Swamp Road the proposal is to go into the culvert, sandbag the edge, hand dig and reform the concrete. Mr. DiVesta explained that they would like to do the project ASAP because it is part of the South Street repaving project and the waters are currently at low flow.

MOTION: To approve the application of Town of Roxbury/South Street - Maintenance and repairs of culverts as an as of right maintenance activity by Ms. O’Conner. The motion was seconded by Ms. Napier and passed 5-0-1. Mr. Dirienzo abstained.

Town of Roxbury/Judd’s Bridge – Culvert repair

Doug DiVesta noted the site of the eroded culvert on the map. He explained that this is a corrugated metal pipe culvert. He proposed a creation of a slope armor by placing large rocks and placing smaller rocks in the void spaces. Rip-rap would be placed is the area near the roadway to prevent further erosion. Barbara Henry confirmed that the town crew will do the work using machinery.

MOTION: To approve the application of Town of Roxbury/Judd’s Bridge – Culvert repair as an as an of right maintenance activity by Ms. O’Conner. The motion was seconded by Ms. Napier and passed 5-0-1. Mr. Dirienzo abstained.

COMPLAINTS/ENFORCEMENT

McDonald / 6 Baker Road - Show Cause Hearing

Mr. Dirienzo explained that Mr. McDonald is running for Selectman; therefore, Mr. Dirienzo offered to step down because he is also running for Selectman. Mr. McDonald explained that it

would not be necessary for Mr. Dirienzo to step down. Mr. Dirienzo explained what a Show Cause Hearing is, its purpose and what is expected of the Commission. He noted that the Commission should review the evidence, decide if there has been a violation and if so what the violation is, and what mitigation is necessary. Mr. Dirienzo reviewed the procedural rules and the file history with the Commission.

Russell Dirienzo reviewed the correspondence between Sean Hayden and ESM. Sean Hayden agreed with ESM; however, felt they did not advise recommendations for mitigation. Mr. Hayden advised the removal of the logs, the stabilization of the stream bank and to seed with native material. ESM recommended that they agree upon a time frame for Mr. McDonald to resolve the encroachment and remove the log bridge or submit an application for a bridge.

Mr. Dirienzo noted that he felt it is too late in the season to seed. Mr. Horrigan explained that he viewed the site and agreed that it was too late to stabilize the area and felt that it was better for the wetlands to leave the bridge in place until planting season. Ms. Fitch noted her concerns that the spring may be too wet to follow the recommendations for mitigation without further damage. Ms. O'Conner noted that with this plan the illegal crossing will be in place for 11 months. Mr. Horrigan suggested the option of using winter rye and hay to restabalize in order to mitigate now.

The Commission questioned Mr. McDonald's intensions with the bridge. Mr. McDonald explained that he may submit a plan for a culvert and rip rap in order to have a permanent bridge to access the property. Mr. McDonald explained that there would be no purpose for the crossing at this time other than to patrol the property. It was noted by Mr. Dirienzo that the property could be patrolled by foot. The Regulations require a purpose for this type of request as well as ask whether there is a feasible and prudent alternative. Mr. Dirienzo noted that Mr. McDonald has a right to present an engineered plan to the Commission for their review.

The Commission agreed that for the purposes of resolving this issue the mitigation suggestions should be completed by May 1, 2010. An update on the matter will be discussed at the April 2010 IWC meeting. The WEO should be informed 5 days prior to the removal of the log bridge and will review the site again one month later. The Commission will be permitted to perform inspections of the site until then and will inform the property owner prior to any inspections.

MOTION: To close the McDonald / 6 Baker Road - Show Cause Hearing by Ms. Napier. The motion was seconded by Mr. Horrigan and passed 5-0.

McDonald / 6 Baker Road – Cease and Desist Order

MOTION: To keep the Cease and Desist Order for McDonald / 6 Baker Road in effect until the temporary bridge is removed and the WEO approves that the area has been stabilized. The bridge must be removed and the area must be seeded anytime before May 1, 2010. The WEO must be notified 5 days before and must be able to schedule to be on site when the bridge is removed. The WEO must inspect the site one month after the bridge is removed and seed is put down to approve that the area has stabilized. Once the area has stabilized the Commission will agree to release the Cease and Desist Order with no fines under this Order. The Commission will put this issue on the April 2010 meeting agenda and will ask Mr. or Mrs. McDonald or their agent to

attend that meeting to provide an update on their intentions. By Mr. Dirienzo and seconded by Ms. Napier.

Discussion: Ms. O'Conner asked for clarification regarding the fine. Mr. Dirienzo explained that there would be no fine if the conditions of mitigation are followed under the Cease and Desist Order. He noted that the fine was imposed is under a Municipal Order and is a separate action. Mr. Horrigan asked for clarification that no other activity is to take place other than the agreed mitigation. Mr. Dirienzo confirmed that the Cease and Desist Order would not be lifted until all the work is done and the Commission is satisfied. No other work can be done on that property until then.

The motion passed 5-0.

Mr. Dirienzo discussed the appeal process for the municipal fine with the Commission. He suggested that Mr. McDonald sign and return the letter he received from the Town Attorney regarding the matter. Mr. McDonald explained that he submitted a written appeal and was going to allow the law to run its course. Mr. Dirienzo agreed to notify the First Selectman of Mr. McDonald's intention to appeal by using the letter he submitted as his request for an appeal.

Mr. Dirienzo suggested that Mr. McDonald's contractor should not ignore the fine. Mr. McDonald advised of the contractor's intention to appeal and noted that he will also allow the law to run its course.

MOTION: To adjourn the meeting at 8:36 P.M. By Ms. Napier, seconded by Ms. Fitch and passed 5-0.

By: _____
Tai Kern, Secretary

cc: B. Henry, R. Lowe, R. Dirienzo, P. Hurlbut, R. Falconer, M. Barton, R. Munson, G. McTaggart and H. Rawson.

Minutes are filed subject to approval by the Roxbury Inland Wetlands Commission.

