

**CONSERVATION COMMISSION**  
**FEBRUARY 2, 2005**  
**AMENDED AGENDA**

Welcome Cheryl Lowe as our new Commissioner and Janet Adachi as our new Associate.

- 7:15 Notice of Intent - 21 Evergreen Road - Paul Grazewski  
Proposed addition of a screen porch to an existing single family home within 100' of a wetland.
- 7:30 Outdoor Lighting Education Committee – Bernie Kosicki – see enclosed information
- 7:45 Health Department – Brent Reagor - Wetherbee Conservation Land  
Permission to do subsurface exploration at the Wetherbee Street field for wastewater disposal. See information provided by Mr. Reagor.
- 8:00 Notice of Intent - 316 Old High Street - Acton Hydro Company, Inc.  
The Commission will open this hearing in conjunction with the Maynard Conservation Commission for the temporary water drawdown of 'Ripple Pond' (impoundment upstream of the Powder Mill Dam on the Assabet River) to maintain, repair and improve dam structures to meet modern dam safety criteria.
- Certificate of Compliance – 342 Mass Avenue 85-832
- IDC from DPW – Emergency Work - Newtown Road @ Arlington Street

**CORRESPONDENCE**

Nagog Woods Community Corporation – ENF comments re: Woodlands @ Laurel Hill 40B development.

SuAsCoShaw & Charles Conservation Commission Network Meeting  
Tuesday, February 15, 2005 9:00 – 12:00

**MINUTES**

December 15	comments received by ME, JR, ADM ( <i>signature</i> )
January 19	forthcoming

**CONSERVATION COMMISSION  
FEBRUARY 2, 2005  
MINUTES**

**MEMBERS PRESENT:** Jeff Rogers, Andy Magee, Mike Eder, Cheryl Lowe, Terry Maitland

**ASSOCIATE MEMBER:** Janet Adachi, Jim Snyder-Grant

**CONSERVATION ADMINISTRATOR:** Tom Tidman

**RECORDING SECRETARY:** Andrea Ristine

**VISITORS:** Paul Grazewski, Gary Green, Steven Feinstein, Brent Reagor, Barnard Kosicki, Victor Tomyl, Steve Doret and Steve Conant, David Hale

**MAYNARD CONSERVATION COMMISSIONERS PRESENT:** Fred King, John Dwyer, Doug Moore and Jennifer Steele (Maynard CC Administrator)

**7:19** Notice of Intent - 21 Evergreen Road - Paul Grazewski

Owner Paul Grazewski presented plans for the proposed addition of a screen porch to an existing single family home within 100' of a wetland. Mr. Tidman flagged the edge of wetlands on the property. Current existing structures are 46' from wetlands. The proposed addition will be within the existing lawn area 41' from the edge of wetlands. There is an existing concrete pad which will remain and the proposed porch would be placed on sono tubes over the concrete pad.

Mr. Magee reported that the NOI did not include a written request for waiver under the Bylaw. The Commission will have to issue a finding with the Order if approved since the proposed porch does not meet the setbacks under the Bylaw and will be five feet closer to wetlands.

An abutter stated that she is not opposed to the proposal.

Mr. Eder stated that he felt that this proposal is not a detriment to the wetland. The Commission agreed that the proposed porch will have an insignificant impact on the adjacent wetlands.

**7:29** Hearing no further comments or questions, Mr. Rogers closed the hearing.

Decision - 21 Evergreen Road

Mr. Eder moved that the Commission issue an Order of Conditions with a finding of fact stating that this proposed project consisting of the installation of concrete footings to support a 20' x 14' three-season porch will have no significant impact to the bordering vegetated wetlands or interests of the Act or Bylaw. All work will be confined to an existing lawn area.

Mr. Magee 2<sup>nd</sup>; unanimous.

**7:32** Outdoor Lighting Education Committee – Bernie Kosicki – see enclosed information

Mr. Kosicki gave an overview of the evolution of the Committee and the Bylaw recently at the April '04 Annual Town Meeting. Comparison slides were shown of shielded and non-shielded commercial lighting and residential flood lights. He noted that the Bylaw does not govern residential properties but OLEC wants to educate Acton residents. By simply shielding household flood lights helps one appreciate the night sky. One way they are trying to educate is by organizing a star party in attempt to appreciate the night sky.

Steven Feinstein, OLEC member, reported that they are holding their third annual sky party for Acton's 4<sup>th</sup> grade students on 3/14/05 from 6-9PM. They anticipate a potential 800 participants at the school star party. The event includes inside activities, multimedia shows, crafts and a portable planetarium star show. They will also have telescopes set up outside; but one can also utilize binoculars to view certain aspects of the night sky.

Mr. Kosicki reported that there will be a general town star party in the spring that will be advertised. OLEC would like the Commission to participate in sponsoring the event. The details will need to be worked out but they would like to hold the event possibly at NARA Park or Great Hill Conservation Area.

Upon query by Mr. Rogers, Mr. Kosicki stated the OLEC could use help from the Commission in planning and execution the night of the event. Miscellaneous activities will need volunteer coverage. They will also need help in securing a location for the general town star party.

Mr. Rogers stated that the education aspect is crucial for what OLEC is trying to accomplish.

7:55 Health Department – Brent Reagor - Wetherbee Conservation Land

Brent Reagor reported that he is seeking permission to do subsurface exploration at the Wetherbee Street field for wastewater disposal.

Mr. Reagor, Water Resources Management Planner, reported that the Town has finished Phase 1 of the. Fifteen areas in town have been identified as needing wastewater disposal; East Acton along Route 2A is one of these areas. The Wetherbee Street field is a site identified for investigation. The Health Department proposes to do borings on the field for permanent monitoring wells with two temporary wells in the center of the field to be removed by April. The test pits will be 10-14' deep in order to get a true groundwater elevation reading on the site. The subsurface exploration will involve one day of drilling and excavating then monitoring. There is an existing groundwater USGS monitoring well on Wetherbee Street that shows the groundwater level at approximately 20' below the surface.

Upon query by Mr. Maitland, Mr. Reagor reported that the investigation could lead to the possibility that this site would be able to take some wastewater without changing the current agricultural use of the land.

Upon query by Mr. Eder, Mr. Reagor reported that East Acton has been identified as a high priority site for wastewater treatment; it has small lots, wetlands, a perennial brook and floodplain, commercial development, two private sewer plants and four large septic systems (condominiums) in the area that in the past five years have begun to show their age. The Citizens Advisory Committee determined this area as a high priority need.

Mr. Magee stated that he is in favor of a common treatment system for constrained lots but he is not in favor of seeing currently unbuildable lots open up for development if public wastewater treatment is provided in this area. The Town has to get the State Legislature to grant the use since this parcel is conservation land.

Mr. Reagor stated that there are more than 20 septic systems on Route 2A that are starting to exhibit signs of their age. They need to keep the current use in tact. MEPA and DEP have identified this part of Acton as a high needs area for wastewater treatment. The Town has to identify parcels that can be explored and the Wetherbee Street field is one of them. Identifying possible parcels is part of process for the Waste Water Management Plan issued for the Sewer District.

Jim Snyder-Grant representing the Land Stewardship Committee reported that there are maintained trails on the Wetherbee Street Conservation Land and an adjacent parcel and there is also an aquifer in the upper corner down through the center of the fields. He also wanted to make sure that Mr. Reagor is aware of the vernal pool in the wooded area on the Wetherbee Street parcel. Mr. Reagor stated that they are aware of this.

Mr. Snyder-Grant also noted that Roundup® is used on the cornfield. Mr. Reagor stated that this should not be an issue and suggested that a management plan could be initiated but they will address it later in time if the site is actually used for wastewater management.

Mr. Magee reported that he was a member of the Acton Wastewater Advisory Committee and was involved in the sewer project and expressed a concern that if the Commission allows the testing and the parcel is found feasible would the Commission be willing to allow the possibility of using the field for a wastewater management site. He stated that he is inclined to say 'no' at this time because of the amount of conservation land and open space being lost throughout the state. Mr. Maitland agreed.

Discussion. The Commission agreed to authorize the testing/monitoring of the Wetherbee Street field for wastewater management but has serious concerns and are not endorsing the development of the field.

Mr. Eder moved that the Commission permit the feasibility research but in no means is endorsing the future use of the land as noted by Mr. Reagor.

Mr. Tidman noted that there are two locations within 100' of wetlands and they will need to file with the Commission for that work.

Mr. Magee 2<sup>nd</sup>; the motion passed with four aye and one abstained.

8:25 Notice of Intent - 316 Old High Street - Acton Hydro Company, Inc. – Mike Coates

The Commission opened the hearing in conjunction with the Maynard Conservation Commission for the temporary water drawdown of 'Ripple Pond' (impoundment upstream of the Powder Mill Dam on the Assabet River) to maintain, repair and improve dam structures to meet modern dam safety criteria. A joint hearing was opened for the reason that Ripple Pond exists in Maynard and in Acton.

Mike Coates reported to Commissioners that the existing earthen dam runs 400 linear feet along Old High Street. The reason for the proposed activities is due to a flood event during April 2004. During the flood event one of the intake conduits collapsed and the dam flood gate was damaged. Dam safety engineers felt that it was best to draw down the pond as soon as possible and they opened both gates. A continuous draw down was encouraged due to the damage that occurred to the dam. These are old flood structures and they now have 40 less linear feet of dam; if the pond is allowed to be raised before repairs are done they feel it could breach the rest of the earthen dam.

Steve Doret, Civil Engineer from Mill Road Engineering, gave an historic overview of the dam regarding its spillway, riveted steel culverts and timber crib deck. A sink hole was created due to the collapse of the dam structure; therefore the dam gates are permanently opened. The intake structure is damaged and in need of repair, which is the first part of the dam to be repaired. There will have to be a sequence of events to maintain the system. This is listed in the NOI supplemental information.

Mr. Coates stated that ultimately the flood level of the pond will be maintained but they want to increase the flow through the system for storm events with larger flash boards. This will improve the capacity without impacting the normal elevation of the pond.

Upon query by Mr. Maitland, Mr. Doret reported that, assuming they get the approvals necessary, the construction would start in June or July, then start work on the timber crib system in July/August and then in September/October the flood culverts and conduits would be closed. They need to complete modifications to the dam (timber crib) before closing the old flood culverts.

Upon query by Jennifer Steele, Mr. Doret reported that they currently have no control of the flow through the system but it is currently stable and they are prepared for a spring flood.

Mr. Coates added that with the timbers open the lowest elevation of the pond is at the same elevation of the granite stone at the base of the spillway. The dam and structures in their current condition can pass an expected flood.

Upon query by Doug Moore from the Maynard Conservation Commission (MCC), Mr. Doret reported that they will be increasing the elevation of the crest of the spillway in lieu of adding structures and encroaching more on the wetland.

Upon query by Mr. Eder, Mr. Doret stated that there will be no increased flow of water down stream since pond is relatively small and once the Ripple Pond has filled it will not have additional storage capacity. Mr. Coates added that they will have better control over the flood level of Ripple Pond once the work is complete.

Upon query by Mr. Moore, Mr. Doret reported that this is a common system and can be made fail safe with the relief valves that can be set once the water meets a certain elevation.

Mr. Coates reported that a constant level of the pond can be maintained before, during and after storm event with the proposed new system which will be better with less fluctuation of Ripple Pond in response to floods.

Upon query by Mr. Moore, Mr. Coates reported Federal Energy Regulatory Commission (FERC) process is a matter of schematics, if approved is four months away before construction could commence. His preference was to have the design report done for FERC prior to the NOI filing, however the drawdown of the pond has occurred and the emergency permits have expired.

Upon query by Mr. Tidman, Mr. Doret stated that they will fill the old culverts by slicing windows in the culvert, plug both ends, fill and force grout into the remaining voids. Low strength concrete is also an option, but they need to fill the voids in the old culverts in case the culvert pipe wall corrodes to prevent the collapse of the roadway.

Upon query by Ms. Steele, Mr. Magee stated that, although a procedural issue, he feels that the MCC has jurisdiction up to the dam.

Steve Conant, wetland consultant, stated that this NOI is filed as a limited project under Act. A general assessment of the wetlands was conducted on January 17, 2005. There are two activities that will affect the wetland areas: the dam itself and the draw down of the pond. There is 8,000 linear feet of bank around the pond and only 80' of the bank will be disturbed for the proposed activities. The general assessment of the Bordering Vegetated Wetlands was not done by identification of plants or soils because no wetland encroachment is proposed, but the drawdown has occurred. Land under a water body is what is currently exposed. Two wastewater treatment plants are upstream from this dam. They will not be affecting the water quality or flow of the stream. There is a short term impact on the habitat of some species in this area. There have been no endangered species identified in this area of the Assabet River. Additional interests of the Act were addressed and are outlined in detail within supplemental information dated 2/2/05.

Upon query by Mr. Eder, Mr. Magee reported that the Organization for the Assabet River (OAR) has been notified. Mr. Magee is on the Board of Directors for OAR. The U.S. Environmental Protection Agency and Department of Environmental Protection will be issuing their own permits for the discharge into the river. The draft permit conditions recognizes much of the nutrient problem.

Mr. Magee asked if some improvement could be made to reduce the sediment, possibly removal of sediments during this proposed activity.

Mr. Coates reported that some sediment sampling has been done but due to funding and permitting issues, he does not know if he would be able to do sediment removal at this time. He assumes that it would be a large permitting process for sediment removal.

Upon query by Mr. Magee, Mr. Coates stated that he will be providing a fish ladder in one of the abutments. The area chosen is shown on Drawing 6 within the NOI.

Mr. Magee reported that there is a large freshwater muscle bed just down stream of this dam structure. Crayfish activity has also been observed. Down stream turbidity is a concern for the muscle bed.

Upon query by Mr. Tidman, Mr. Conant stated that the prolonged drawdown of the pond should not affect any invertebrates since it was done prior to their hibernation period.

Mr. Tidman suggested that Commissioners get additional questions in writing prior to the next meeting date.

Upon query by Ms. Steele, Mr. Coates stated that he would have repaired the dam with water level up if they physically could but the work needs to be done in sequence before other things can be done.

Maynard resident, Victor Tomy, stated that he feels that the dam has not been maintained correctly. He did not see a need to file for an emergency. He stated that the floodplain included within his property is a wetland. The only emergency he saw was the work done in the generator building and the bank was not stabilized after the April 2004 flood event. During the 1940 and 50's he experienced major flooding. The double pipe spillway was installed because High Street had historically been washed out. He feels that when the flash boards were added to the dam around 1984 it turned his floodplain area into a wetland. Based on government maps the flood elevation is set at 146' above sea level. An emergency was declared ten months ago on this site and nothing has been done. This NOI filing is for the repair and structure work but he feels there should be consideration for landowners upstream of the dam. There is stressed vegetation due to long term drawdown of the pond.

Mr. Tomy inquired as to who has the authority to determine the ultimate height of the top flashboard of the dam structure and what will be the lasting effect for the upstream landowners. Mr. Coates reported that it is the jurisdiction of the Federal Emergency Regulatory Commission (FERC) to determine. This was done approximately around 1984 and was determined through the public process at that time. Since December 2000 the water level has been controlled and it is 15" lower than the top elevation allowed. The pond has not been impounded to the top permitted level with exception of one previous owner that he is aware of who put on more than 15" of flashboards permitted but it was returned. The elevation of the pond will be 141.75' as it is permitted. Mr. Coates agreed that the real issue is proper management and compliance.

Mr. Tomy also noted that Assabet Sand & Gravel has a permit to draw water from the Assabet River as well.

9:49 Upon agreement by the Applicant, Mr. Rogers continued the hearing for the Town of Acton until February 16, 2005 at 8:15 PM.

Upon agreement by the Applicant, the Maynard Conservation Commission continued their hearing until February 15 at 7:00 PM at the Maynard Town Hall. Mr. Magee stated that he will try to attend the meeting in Maynard.

Mr. Coates added that the current flow the river is average for this time of year. Several years ago the flow was four times as much and the pond was a foot higher. The pond seems to be experiencing a two foot fluctuation in elevation. Currently the lowest outlet of the pond is at the intake gates; this proposal will not change the level of the intake gates he only proposes to modify the spillway and flood conduits.

### Woodlands at Laurel Hill Update

Mr. Magee updated the Commission regarding the site and related filings. An Environmental Notification Form (ENF) has been filed with Massachusetts Environmental Protection Agency (MEPA) and is currently undergoing the public comment period. The Commission approved a letter drafted by Mr. Magee to the MEPA regarding the ENF. It was reviewed by Town Counsel prior to sending it to MEPA and the Commission was requested to work with the applicant to address some of the concerns in the letter. MEPA granted an extension for comment submittal. Mr. Magee met with staff, management, engineers involved and counsel on this date.

The Commission negotiated to allow the detention basins as proposed and the applicant has agreed to try have more respect of the setbacks under the Bylaw; they have moved the parking area farther away and reduced the amount of buildings within the setback areas.

David Hale, partner in the assembly team of this property, reported that they have received comments from all department heads and the Board of Selectmen from both Westford and Acton have taken over more of the process which has affected the ability to address individual concerns. They are negotiating with both towns which has delayed the specific answers by individuals involved. More units are now proposed in Westford at their request which has allowed them to pull some of the buildings farther from wetlands located in Acton. Oxbow Associates was brought on site and identified various pools with habitat value; they are currently in agreement with Natural Heritage and the applicant will impose a deed restriction on 20+ acres recognizing the species of special concern (Blue Spotted Salamanders) on site. Mr. Hale stated that their intention is to have an environmentally responsible project but outside forces have caused them to refocus their immediate attention. They will be back with an acceptable design before the Commission but right now they are trying to get through the MEPA process with a single EIR. MEPA is concerned with DEP and the Wetlands Protection Act issues only.

Mr. Magee reported that based on the recent meetings with the applicant and town counsel he has drafted a revised letter based on the Chapter 40B filing that the Commission will need to vote to accept since the previously drafted letter to MEPA that the Commission voted on. He recommended that Commissioners hold a special meeting to review and reconsider the concerns stated in the previous letter.

The Commission will hold a special meeting on February 9, 2005 at 8:00 AM.

### IDC from DPW – Emergency Work - Newtown Road at Arlington Street

Mr. Tidman reported that the Town needs to remove a tree and a built up sand berm that has created a drainage and icing problem in the roadway. A culvert in this location will also have to be worked on later this year. The Engineering Department intends to file with the Commission this spring to further address the stormwater issues in this area.

Mr. Maitland moved that the Commission allow the removal of the tree and sand berm with the understanding that a future wetland filing will be submitted to address the stormwater issues and culvert replacement under Newtown Road. Ms. Lowe 2<sup>nd</sup>; unanimous.

10:55 Meeting adjourned.

  
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Jeffrey Rogers  
Chair