

MELROSE CONSERVATION COMMISSON

Meeting Minutes

June 7, 2007

The Meeting Came to Order at 7:35 p.m.

Present from the Commission were: Kevin Anderson, Susan Craig-Gerson, Susan Murphy and Matt Pecci.

Absent from the Commission were: Richard Doucette and Steve Locke.

Present from the Public were: Alison Birch, Ginger Fitzsimmons, Dana Jewell, Calvin Layton, Mike Ryan and Matt Starr.

Invoice

An invoice from EcoTec, Inc. for Arthur Allen for the Resource Area Delineation at Boardman Avenue and Cranmore Lane for the amount of \$765.00.

Motion

Motion by Commissioner Craig-Gerson to approve and pay the invoice to Arthur Allen at EcoTec, Inc. in the amount of \$765.00 for the Resource Area Delineation at Boardman Avenue and Cranmore Lane, seconded by Commissioner Anderson, voted unanimously.

Correspondence

Two Mass Wildlife Newsletters

GIS Information – Government Matters Newsletter

ArcNews for GIS Newsletter

NOFA -- Organic Land Care Guide

MACC Newsletter

Announcement for the Friends of the Fells Annual Meeting

Slope Protection -- Special Permit for Dana Street. A special permit was granted and may be appealed by the abutters.

Wetlands Preservation, Inc. Information

Notice of the Lakes and Ponds of Massachusetts for a meeting on Saturday, June 16, 2007

Trust for Public Land Newsletter

Woodard & Curran Newsletter

TEC Associates Yearly Operational Plan

7:45 p.m. Public Meeting
Request for Determination of Applicability Submitted by the
Department of Conservation and Recreation and Northern Tree Service
for the DCR Right of Way Maintenance

Chairman Murphy read the complete description. We have with us Calvin Layton from Northern Tree Service. If you could please present to the Commission what the plan is for tonight?

Calvin Layton: I am here representing DCR to do the five-year plan and the yearly operational plan, and we are also the applicator as well. Northern Tree Service will actually be doing the application. DCR is trying to handle maintenance as most agencies are, and they turned to us to develop an integrated plan and to control the areas for their maintenance. The only way you can use herbicides in Massachusetts is by complying with the regulations through the 33CRM11. The regulation requires you to develop a five-year plan and then follow with a yearly operational plan. There is a 21-day notice and a 48-hour notice in the paper before the application begins. The only exemption from a wetlands or the Wetlands Act is electric utilities and gas pipelines. That act was written as an eleventh-hour change. They forgot about railroads, highway and towns as well. Everybody now, outside of utility right-of-ways has to file a Request for Determination to the Wetlands Act and that is why we are here. We do not intend to treat in any wetland resource area. CRM11 requires that we stay way from the edge of the wetland or water. So, basically, what we are here for is so that we can treat within the 100-foot buffer zone but it is 90 feet. The use of herbicides is in conjunction with all of DCR's management. We will continue cutting. This is to assist us in areas that are very difficult to maintain. Primarily, in places with poison ivy and guardrails or concrete where it is hard to control. It is a combined project to help DCR. Everything we will be doing will be selectively applied and no broadcast applications. This is a little bit unique of a program because one of the requirements of 33CRM11 is only for state agencies that they demonstrate over time a reduction of the use of herbicides and that they are managing their program to reduce the use of herbicides. As a result, we have decided to employ for the selective truck application. We are going to use a machine that will sense and spray only a green weed, not pavement, dirt or guardrail. So, when it does a guardrail, if there is nothing to spray, it won't spray. It will dramatically decrease the

amount of herbicides use rather than a broadcast spray. It is a good idea because there is no sense in spraying. The only reason that DCR wants to use herbicides is it is the only way of killing the root of the plant. If there were another way to kill the root, we would do it. Once the root is gone, it will keep that weed free from native or another kind of plant, a target weed. If we can eliminate a patch of poison ivy, that is an example of the biological needs. This is limited to rights-of-ways for DCR. We are applying that to our parkways, sidewalks and our maintained trails. This wouldn't be in the reservation where you have a trail through the woods that people don't use, only the trails that DCR have in their system that are marked. The primary target will be poison ivy for the safety of the people using the trails. On the parkways, our primary target is the grass with the weeds growing. 33CRM11 is a good structure and strength of this application and is a limited scope. The VMP will be how we will mark the areas and how we will do the application. With that, I will open it up for questions.

Chairman Murphy: First of all, we will ask questions from Commission and then open it up for questions from the public. What herbicides do you use?

Calvin Layton: We are using herbicides that are approved for use in sensitive sites. Massachusetts Department of Agriculture has an herbicide that they consider to be safe that are within buffer zone areas around wetlands and homes and places like that, residential areas. What I have done and where we treat outside of an area, we still use the sensitive materials. Round-Up mixed with Escort, which is very safe. Aerosol can be used and Escort is on the list. Our primary material will be Round-Up and depending upon the application, it will either be mixed with Escort or Oust. Those are additives that are used to produce a better control.

Commissioner Craig-Gerson: Do these herbicides kill on contact or are they systemic?

Calvin Layton: They are systemic. They control the root system. Round-Up is known to be an amino acid and works on amino acids or enzymes. When it disrupts the amino acids in a plant, the plant basically stops. That is why Round-Up takes a couple of days to work. These amino acids do not occur in plants and that is why the toxicity level is very low. It doesn't bioaccumulate in the environment. It is a good product.

Commissioner Craig-Gerson: How long after the target plant is dead is it no longer in the soil?

Calvin Layton: That depends on the organic content of the soil. If it is a highly organic soil, it will break-down in several weeks. In the sandy soil, it may stick around for two to three months. That would be the downside of it. The regulations are pretty comprehensive for treatments.

Commissioner Pecci: What is the frequency of application?

Calvin Layton: Once a year. In some areas, it could be every 24 months.

Commissioner Pecci: This approval is for five years?

Calvin Layton: This is for three years, and then in three years, I will have to come back to have the RDA redone. This gives your Commission time to measure the program and measure the effectiveness and say you told us that this would happen and this is what happened and these are our issues.

Chairman Murphy: Do you have maps of the wetland areas?

Calvin Layton: Basically, what we have done is an overview map of all of the facilities that we would be managing. Then, when we get ready to do the tree maps, we will go out and mark the no spray areas. At that point and time, we will notify you to review those areas before we treat. If you would like that, it is not a problem. In your case, I use the DEP 1 to 12,000 off of GIS and then can control the entire route to make sure it is accurate. I will then mark the areas that we will not treat. So, in my first go through, I see that there are no areas and won't mark but will let you know that I won't be treating. I will let you know that we will not be treating south of this intersection or road. DCR's objection here is to get the approval of all 29 towns that it covers so that if in the future something does happen, it can be done because there is a plan in place. I am permitting to areas that I may not even treat.

Chairman Murphy: We would like to be notified by you and review it.

Calvin Layton: The last thing that your Commission needs are phone calls telling you that people are outside spraying. Our roadside treatment will take place at night from 10 p.m. to 5 a.m. to avoid contact with people, pets and animals. The pathway treatment will occur during day. If we treat a trail, we will post signs. As soon as the herbicide dries, within several minutes, it is then safe for entry. In order to be harmed by the herbicide, an animal literally would have to digest pounds and pounds. It is a safe herbicide, and the toxicity is low for mammals.

Chairman Murphy: What is your relationship to local By-Laws and Ordinances? We have an Ordinance that is in the process of getting finalized.

Calvin Layton: We will strive to comply. The only issue that DCR would have is that the roads go through multiple communities and have to maintain for the safety of everyone and not just Melrose. So, because of that, there are certain things important to us. We are treating roads that are going through all communities. We are not opposed to working with a community with a reasonable approach. So, we are taking a proactive approach. DCR is trying to provide a safe parkway system for everyone and this is one of their means to do that.

Chairman Murphy: Any other question or comments from the Commission?

Commissioner Anderson: How would the marking be done with flagging or something else?

Calvin Layton: We will be painting a yellow arrow. Those would be done by GPS. We drive the route and put up orange traffic cones, which indicates that is a no-spray stop, and at the other end of the no-spray zone, we would put a lime green traffic cone at the other end, to indicate to start spraying again. You establish those boundaries. I would use guardrail markings, and on the highway, you would use plates on the ties. The traffic cones will be the tall kind. The application crew will have DCR with an arrow board and lights. It will be a noticeable application.

Commissioner Anderson: Just one more minor thing. You said it is a 12-month application and the material won't bioaccumulate in the environment. What is the specific mechanism for natural dehydration of the material?

Calvin Layton: It is broken down by the organic materials. It is basically deactivated by the soil and all of those components get deactivated by the soil. So, some last longer than others. They have done studies and tests, soil tests to determine that. That is how the EPA registers a chemical. They do that. They will tell you the longevity. We can provide sheets and labels just in case some one asks. Everything is on-line at the state website. So, if someone calls, you can give them the website to go to.

Commissioner Anderson: The website will list the chemical material?

Calvin Layton: The material we will be using will be Round-Up Pro and it will have a registration number and will use the version, there are a couple of them, but Round-Up Pro is a bit more expensive but a better product. People are familiar with it if I say Round-Up and tell them they can buy it at Home Depot. It is a readily available product.

Commissioner Pecci: How was DCR's process and performance of this in the past?

Calvin Layton: Before the regulation, they used to spray themselves off and on. DCR employees would spray. When this regulation came on, they stopped doing that and then tried to hand-cut it wherever possible.

Chairman Murphy: Do we have a motion to open for public comment?

Motion

Commissioner Anderson motioned to open for public comment, seconded by Commissioner Pecci, voted unanimously.

Chairman Murphy: Are there any members of the public that would like to make any comments?

John: My name is John _____. One of my concerns is to use it along the roadways but have a concern about using anything to kill poison ivy on interior trails because we had the turkey incident a few years ago on that part of the parkway and are starting to

have more wild life. One of my concerns is on those roads where the Hemlocks are. Ash have died and the Maples are going to die and will have a whole regeneration that will be growing on the edge of that road. Deer are edge feeders. It is a good idea to kill the vegetation on the edge because we want to keep them in the woods. A lot of birds eat the Poison Ivy berries.

Calvin Layton: In terms of the Poison Ivy, the DCR never hopes to eliminate all of the Poison Ivy and would be beyond the scope of their budget. The goal is to get the Poison Ivy that would directly get people on a path especially if it is growing on the path or growing on a tree near a path. We will be mainly on sidewalks where people could get into it. The animal issue is another whole ball game.

Chairman Murphy: Any other questions from the public?

Matt Starr: Is there any danger if it rains within a certain amount of time?

Calvin Layton: No, the application rate is so low. The typical mixture for grass and weeds would be 2-3 % mixture or a 1-2 mixture. We will have 98 gallons of water to two gallons of Round-Up for a 100 gallons. Then, we apply it over the course of a mile. It is very small. You would have to have, it is just not possible, to build-up. If I were treating a field with this and it was funneled to one dish and we had one massive, big rain, yes, you might see some big target. The toxicity is so low that you could drink pure Round-Up. That is why we chose Round-Up. An accident just isn't going to happen. If a truck rolled over in the snow, that might be an issue, but we mix at the DCR facility and bring it out in a pre-mixed truck. All trucks have spill kits. It limits our exposure to application and safe application. We are licensed and trained if there were an accident. We are trained on how to handle that.

Mike Ryan: Something you said earlier about this being a manpower issue with the DCR, I am little bit surprised about past protocols. There are 29 different communities and you are going one by one and it is pretty surprising to me. I will tell you why I am saying that is because in the past, when the Parkway Guidelines were approved, in those guidelines, the question of frequent treatment was discussed. Mass Highway before used herbicides and MDC used weed whackers. This is a long-standing policy. I think they are putting a lot of pressure on the local Conservation Commission to make this policy change without the public having the chance. I have some questions. In one of the past Audubon materials it mentioned using herbicides in the interior of the Middlesex Fells. The Middlesex Fells is an important area and don't know if this is a questions that I should know the answer to but herbicides are more and more. The bees are dying off like crazy. There is a benign herbicide and now they are loosing all of the bees. The point is that we are learning more and more and have a very sensitive area here. Recently, there was a talk about why the Middlesex Fells was an important bird area and it is an overfly zone for migrating birds. Now, herbicides are going to be used inside the reservation without any public discussion. It is very surprising to me and is putting a lot of pressure on boards like this. I just wonder to what level you have the man power to go in really make these determinations on these long paths within the Fells. I guess my first question

is the process and what kind of a reasonable plan would you go after and would you work with DCR and the rangers?

Calvin Layton: Outside of the right-of-way paths or trails, DCR has always been able to use herbicides. They could use them but like anything else, it is my personal opinion that the proper use of herbicides requires licensed personnel. From what I understand, DCR will be getting some of their people trained and licensed. To back up a little bit, the DMP had a statewide hearing for DCR when it was instituted at the beginning of the year.

Mike Ryan: When was that?

Calvin Layton: It would have been last year probably in the spring time.

Chairman Murphy: I just wanted to comment. Our job here is the determination of the Wetlands Protection Act and with Mass Highway coming in our decision would be the same with the roadways. Maybe within the reservation we could look at it differently, but I also note that if they are not within the 100 feet of a wetland, they wouldn't even be before us.

Mike Ryan: I didn't know about the hearing.

Calvin Layton: It was in the newspaper. I would have liked to have seen more people there because it would have given the public more information. We had to come before the Conservation Commission because that is the next level of impact. If I were to measure the buffer zone area, it is a very limited area. People pay attention to the Conservation Commission's hearings and they come. So, this is a good forum to do that.

Commissioner Pecci: What is your schedule for the application?

Calvin Layton: There are two windows. The first one is between June 15 through July 15, and then the second one is in August. I think it is around mid-August.

Commissioner Pecci: Why the time between the two windows? Is it scheduling and manpower?

Calvin Layton: Yes. The Park Rangers are the ones who file the reports on these trails and if they have issues.

Commissioner Pecci: How many actual days?

Calvin Layton: In your town, probably two days. For the trails, it is probably another two days.

Commissioner Pecci: Earlier, you mentioned that one town had an issue. I just realized that each town operates themselves and was wondered if this creates more of an

opportunity for dialogue and some coordination on a larger scale with other commissions than previously.

Calvin Layton: This is the way the regulation is written and set-up. We are housed a bit larger. You are my 20th town and you would be amazed about how some Commissions operate. I was in Watertown last night and they had a lawyer challenging the law. I did not write the regulations. All of the towns I have been to except for one, has given us a Negative Determination and have been continued in several towns but then given a Negative Determination. Most towns have asked that I provide the spray zones to the conservation agent and provide the labels and also notification before we treat. I can provide all of that. Herbicides do not lie. You will know where I have sprayed. Anything over 12-feet high has to be cut and that is stated in the regulations.

Chairman Murphy: We want to make sure we are adequately monitoring so we can have a sense of whether something has been done that was not intended to. We will work with Friends of the Fells and that may be the best way to do that. I will let Dana make his comments.

Dana Jewel: I agree with you. The Japanese Knot Weed is just impossibility. It grows in impossible places. When you are talking about doing the parkway first, you are talking about spraying along the curbs where there is housing on those grass strips?

Calvin Layton: No.

Dana Jewel: Within the reservation, are we talking backpack use?

Calvin Layton: Yes. If it is a wild trail, we may put an ATV in there.

Dana Jewel: Route 129 in Wakefield, along the guardrail there is a brown dead zone and everything is dead. It is unreal. It is in Saugus. I guess Mass Highway approves this because it is not a state highway. It is right next to the Saugus River. Poison Ivy is an obnoxious weed.

Calvin Layton: We are not targeting that because we know it is a native but are helping the trails. Also, there are pets and animals that run on those trails and go through the Poison Ivy and bring it home. It is an issue.

Mike Ryan: In terms of coordinating with DCR, they are so strapped for personnel.

Calvin Layton: I am going to provide a report to the Town of Melrose stating what was used and when and then you can track it. This way, you have a track record of what we did.

Chairman Murphy: Can we get the records?

Calvin Layton: Yes, it is your tax money that is paying for this.

Mike Ryan: To reiterate on Round-Up, Round-Up doesn't require licensing. Anyone here to go to Home Depot and purchase it.

Calvin Layton: The materials are all listed on-line.

Chairman Murphy: I want to ask you, Mike, if we get reference of where it has been sprayed, is there any other thought that you have that the Commission and you would like to get out or need to assess that this is working in the appropriate way?

Mike Ryan: I think to monitor it will be important.

Chairman Murphy: Can we have a motion to close public participation?

Motion

Commissioner Craig-Gerson motioned to close public participation, seconded by Commissioner Anderson, all in favor.

Chairman Murphy: Any more questions or comments from the Commission?

Commissioner Anderson: I think it was all discussed. I think it is an opportunity for learning and going forward. Getting the report would be helpful.

Chairman Murphy: One thing that we talked about was the decision for notification and the opportunity to review the no-spray zones and notification prior to the spraying of the materials. Also to get the data sheets and reports for the records within a relatively short time after it is done. What is a reasonable time period?

Calvin Layton: I would say within two weeks.

Chairman Murphy: That is what I was going to suggest. Something so we would have a target. Can I have a motion for a Negative Determination with the opportunity to review the no-spray zone, notification and the material safety data sheets for the records for the City of Melrose pertaining to spraying?

Motion

Commissioner Pecci motioned to issue a Negative Determination with the opportunity to review the no-spray zone, notification and the material safety data sheets for the records for the City of Melrose pertaining to spraying, seconded by Commissioner Anderson, all in favor.

Chairman Murphy: We will be getting you your paperwork within a timely manner.

Calvin Layton: I appreciate the time and input. Your messages will be brought back to the DCR and will go from there.

Chairman Murphy: Thank you very much and thank you everyone for participating.

Mill Road Maintenance

We actually own the parcel that the dirt path goes down. There is an abandoned house on four acres, which the Conservation Commission has discussed actually trying to purchase. Two Mill Road is owned by the Souza's who came in three years ago. They have routinely maintained the dirt road and it is next to wetlands. They had a lot of complaints from the neighbors. They came in for an Order of Conditions and they wanted one that would be perpetual. It would have expired this month. We looked in the file and realized that it was in June of last year that it was three years ago, but we never issued the Order. It would expire but it was never issued. He never received it and it was never recorded with the Registry of Deeds. We can't issue them anything perpetual but there is something that you can issue that is longer than three years for extreme circumstances. He has to notify us before he does something so we can go out and look, 48 hours before. We could issue it now. The complaint was that he was using heavy equipment. He can use a Bob Cat and someone was watching them use a bigger piece of equipment and watched them drop things into the wetlands. I was notified a month ago and the complaint was from last year. The Commission agreed the fairest thing for the applicant was to give him a one-year extension expiring June 30, 2008. We will have them come in next spring to review everything, and they may have to file again.

Motion

Commissioner Craig-Gerson motioned to extend the Order of Conditions for Mill Road, seconded by Commissioner Anderson, voted unanimously.

Mill Road Purchase

Commissioner Pecci updated the Commission about the possible Mill Road purchase. Commissioner Pecci, Commissioner Locke, Mike Ryan and the Project Manager from the Trust of Public Land went to the site. We are meeting some time within a week or so with the mayor. It looks like the Trust of the Public Land has to make a pitch to his higher ups and get the okay, and if they are on board, they will do the Self-Help Grant and write it and or help us facilitate the whole deal. They would negotiate with the land owner and come up with a deal and then would pitch it to the city. Financing would have to be worked out. There may be some temporary financing. Hopefully, the mayor will invite the Trust of Public Land to get involved. That is what the Trust of Public Land needs. The Mayor has to invite them. The Trust of Public Land may help us with the grant and may provide us with temporary funding. If the city can show that they are going to go forth with a Request for Funding, then the Trust Fund may give financing, like a bridge loan. We would probably also have to do a fundraiser. Also, in about a year, the city may have some funds available. It may be about \$200,000. It is an

abandoned house on four acres, and they haven't paid taxes for three years. Mt. Hood may have a vested interest in the property. Third Pond and Second Pond drain to First Pond and First Pond drains into Towner's Pond, right near this property. The property could be developed but it also could damage the drainage for Mt. Hood. The property is on the market. Commissioner Pecci will keep the Commission updated.

28 Rudolf Street **Tree Issue**

Chairman Murphy talked to Paul Giannelli. He planted 17 trees, and five trees died. Those trees will be replaced. There was one tree that they couldn't reach and didn't want to put equipment on it. The silt fence looks okay and some parts were down. The silt fence needs to be fixed again. It looks okay back there. It is mostly stabilized. They haven't hydro seeded yet. He is willing to put the tree gators on it. They are slow watering bags. Other than that, it looks okay. A neighbor called me because Gionelli was trying to make a berm to control the water. The water comes off of that hill that comes from Malden and rushes down, like a river. It is a bit more controlled. I didn't go out there recently when it was raining really hard but will to see how it is working. They should be in soon for the two Certificates of Compliance after he fixes the trees.

Updates **Ordinance and Ongoing Projects**

Chairman Murphy doesn't know if Mayor Dolan signed it yet because Bob Beshara said he never saw the Ordinance and had a problem with some of the language. It has been now two years. The AG's office already read it and reviewed it.

I think we have an intern to use up some budget money and to work on some open issues for a few weeks.

Erin Madden will not be working for us any more due to her broken ankle and foot.

Budget Status

Advertising -- Always has money left over.

Printing -- I forgot about trail signs.

Education and Seminars – There was some recent activity. \$227.50 is a current and we have \$360 for that. Those are the only two year-to-date expenses. Buy MACC Manuals with that money because we all need the new ones. Kevin and Richard have the new ones. Those can be purchased out of Education. Chairman Murphy will order the manuals and some books.

Conservation -- \$2,650 left. Chairman Murphy is going to talk to Nick about tree maintenance. Tree maintenance usually comes up at the end of the year. Chris Hall, the Eagle Scout Guide, spent some money on paint for trail marking and bought some supplies. I haven't received his receipts yet but assume it was a couple of hundred dollars. In that line item, we can carry over funds.

Professional Services -- \$2,900 left. Commissioner Craig-Gerson motioned to issue a pay raise for Meredith Beauchesne at the rate of \$15 an hour from \$12 an hour, seconded by Commissioner Pecci, voted unanimously.

Office Supplies -- \$320 left. Commissioner Craig-Gerson will price dictaphone machines to purchase one before June 30th.

Adjourn

The meeting adjourned at 10 p.m.

Motion

Commissioner Craig-Gerson motioned to adjourn the meeting at 10 p.m., seconded by Commissioner Anderson, voted unanimously.

Respectfully Submitted,

Meredith Beauchesne, Secretary