

MELROSE CONSERVATION COMMISSON

Meeting Minutes

May 3, 2007

The Meeting Came to Order at 7:40 p.m.

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

Absent from the Commission was: Steve Locke.

Present from the public was: Ralph Souppa.

Invoice

An invoice from Meredith Beauchesne for secretarial services in the amount of \$300.

Motion

Commissioner Pecci motioned to pay and approve the invoice for secretarial services in the amount of \$300, seconded by Commissioner Doucette, voted unanimously.

Correspondence

Friends of the Fells Newsletter

Request for Determination of Applicability for the DCR will be held at our June 7, 2007 meeting.

MACC Newsletter

**7: 45 p.m. Continuation of the Public Hearing for
the City of Melrose's Notice of Intent for
Drainage Work Improvements at Ell Pond and Melrose Towers**

Chairman Murphy: This is a continuation from our April 19, 2007 meeting.

Ralph Souppa: In response to a DEP comment about the Melrose Towers.

Chairman Murphy: These are DEP's comments about the Melrose Towers and that the exception for replication of the site in the Notice of Intent for fingerlike projections, are not appropriate in this case. As a limited project, it could be permitted if the structure is dated pre 1983. I have been in contact with CDM regarding the content and said that we would require an alternative analysis if the city were to do a very big project and why there couldn't be replication in this area. I understand that there is a response to that.

Ralph Souppa: I have a letter in response. Basically, **(the plan was shown to the Commissioners)** lets just focus on what the situation is. There is an existing headwall right there that has collapsed. We want to replace the headwall right where the existing one was. We then realized that the wetlands were just schlepping off into the drain and that is what caused it to plug up. So, we decided that the best way to maintain it, the level of the wetland, is to put in a new concrete ware in front of it to hold it back. We are looking at 2,700 square feet of wetland impact, and what we have done now is we have simply pulled the headwall back so the ware is near the old headwall. So, it just projects out into the wetlands anymore. **(Pictures were shown of the headwall.)** This is the area where it is and it is behind the fence. So, the headwall now will be in this area. It goes right across the top of the headwall. The headwall ware is where the headwall was. The pipe will go in here. The pipeline is from 1972. It was there 1975. Instead of dealing with that, we decided to move it

Chairman Murphy: That is why you have alternatives.

Ralph Souppa: It works out well.

Chairman Murphy: So, that is the update.

Commissioner Doucette: Now, it just comes down to buffer zone work.

Ralph Souppa: We will have to pull the old headwall out.

Chairman Murphy: I talked to Bob Beshara about a couple of issues. One being the fact that they still have an outstanding Order of Conditions on the field behind it, and he is committed that they will try to track down their As-Built; and they will file for their Certificate of Compliance. So, we have to decide if we want to put that into our Order or keep it as a separate agreement that we need a commitment date since there is a history of not ever doing the Certificates of Compliance.

Commissioner Doucette: That is pretty standard stuff with DPW's.

Chairman Murphy: We shouldn't let them do that. One of the interesting things is that the elevations in the wetlands as of 1999 were lower than what they are now. So, there is sediment going into it. It is possible to explore removing some of that sediment for the restoration because it could have a positive affect. That would be farther down the road. The reason it overflows is because the MWRA's pipe is so full and can't take anything. If that problem doesn't get resolved, that problem may need to get resolved and replace

that. They would raise that up or something. We would probably be seeing this area again for a couple of things. Is it MWRA that is discharging sewerage into the wetlands? The problem is that it is the city's pipe.

Commissioner Anderson: With a nice, brand new storm drain system, it should work now. This is a conduit to take an overflow situation and, ultimately, Ell Pond will be resolved.

Chairman Murphy: The sewerage issue is into the MWRA's lines.

Commissioner Anderson: This will actually be conveying any overflow.

Chairman Murphy: Directly into the pond?

Commissioner Anderson: Right.

Chairman Murphy: Interesting.

Commissioner Anderson: I think that that may be an angle to play with Mr. Beshara's group, and I, personally, would be in favor of putting new baggage on this project.

Commissioner Doucette: We need to set a good example for project development.

Chairman Murphy: Any other thoughts or comments on this aspect?

Commissioner Cronan: There are just a lot of twists here. It looks good.

Chairman Murphy: Any other thoughts on this? We don't have any public present for comment. I talked with DEP about this. I was trying to put in our Order a structure for reviewing how the city operates this crest gate and how it can be set at different levels. There was been talk about how they are going to lower it when they know a storm is coming. I think Bob Beshara doesn't want to have sole responsibility for that. So, I don't think that will be a problem. This is my attempt how we condition the Order.

Commissioner Anderson: Would this be a policy type of memorandum? This will be sort of a pre-negotiated deal?

Chairman Murphy: We would sit down with Parks, Planning and Public Works and talk with whomever we think needs to be there and just sort of set what the parameters are. Who is going to make the decision, who is going to be notified and are we going to set any limits on how much they can lower it in one day? I was also just looking for as many opinions about whether this type of drawdown would be likely to have an impact on the pond. There are seasonal drawdowns as opposed to a storm drawdown, which will be temporary, which will be good, but it will be spring, which is a more vulnerable time for species in the pond.

Commissioner Doucette: I am involved with a project in Provincetown that they took out some old culverts and put in a gated ware to try to restore a flooded salt marsh. What the Parks Service decided to do were to have annual meetings with anybody who cared to talk about what they did in the past year, and if they took out another board, what happened ecologically and thoughts on taking out another board. It was a good way for everybody to make sure that the communication doesn't stop. I think a Letter of Understanding is a good thing, but maybe as a condition, DPW could come here once a year and talk about how it went.

Commissioner Anderson: Lessons learned. Kind of like a round table type of thing.

Commissioner Doucette: Maybe after a couple of years, we don't need to meet. Don't make it sound punitive to them but it is just one of those things that we would like to stay-in-touch.

Commissioner Anderson: This looks fine.

Commissioner Craig-Gerson: I agree.

Ralph Souppa: This is not the sort of thing that we can come to a meeting and say can we reset the crest. It is going to have to be that the big storm is coming and we know it is coming.

Chairman Murphy: That is the idea of the memorandum so we know what is set forth ahead of time, what the parameters are and how and if they are going to do it. Also, to call the Chair or e-mail us to let us know that they are doing it.

Ralph Souppa: The only thing about the crest gate is that it will have a certain stipulation and it will sense if the flooding begins to occur, and if no one opens it up, the crest gate will open up to maintain that original fixed amount. So, you don't necessarily have to be out there at five o'clock on a Sunday morning. It is when a big storm is coming up the coast and you all know it, that is when it has to be done. You don't want to wait until after it starts to flood.

Chairman Murphy: So, the exceptions would be, there is going to be a set policy about when and how they do it. Then, if they want to change or have another reason, say an invasive species problem that they want to address, that is going to have to be totally subject to a different proceeding before us. Is there any situation or emergency situation why they would want to change that elevation?

Commissioner Anderson: They have the means of the stop logs to isolate the situation anyways. So, it is a back-up.

Ralph Souppa: If something happens and the main channel comes out of the pond, some type of collapse, not during a storm, a sink hole or something.

Commissioner Anderson: I don't think we can procedurally anyways.

Chairman Murphy: It seems remote enough. Is 44.7 the right elevation because I think there was a typo in the original Notice of Intent?

Ralph Souppa: I think it said 47.7 or something. 44.7 is what is accepted. These elevations are different than the city's elevations. Can I have a sense of when the Order of Conditions might be issued? Is there a 21-day waiting period?

Chairman Murphy: We have 21 days from the close of the public hearing. It is our intent to close this tonight and discuss what the conditions will be. I have been trying to get things out within two weeks. Things are calming down and should be able to do it next week. Is there some date that is an issue for you?

Ralph Souppa: We want to have this all set before it is executed. Bids are later this month.

Chairman Murphy: Certainly, it will be within the 21 days, which is what we have. It shouldn't be an issue. There is no public here. Do we have any other comments before we close the public hearing?

Motion

Commissioner Craig-Gerson motion to close the public hearing, seconded by Commissioner Doucette, voted unanimously.

Chairman Murphy: We seem to be on our way to approving this.

Commissioner Anderson: What day are you taking bids?

Ralph Souppa: The 24th.

Commissioner Anderson: The last day you can issue an Amendment is probably five days before that?

Ralph Souppa: That is not really that big of an issue. It is not a major wetland modification.

Chairman Murphy: We usually make a motion to issue an Order of Conditions and then we have the discussion?

Commissioner Craig-Gerson: We have done it both ways.

Chairman Murphy: Do we have a motion to approve the Notice of Intent for the City to issue an Order of Conditions subject to special conditions? Do we want to go through our conditions prior to having a vote?

Commissioner Craig-Gerson: It doesn't matter.

Chairman Murphy: We used to vote on it and then we would just do the actual Order later.

Commissioner Doucette: Then it would be unclear what you are voting on. I guess then you vote on yes or no. I know I have never done it that way.

Chairman Murphy: It strikes me as wrong but that is the way we have traditionally done it. We will talk about the conditions. This is the boilerplate, special conditions that we have on file. What I was thinking was that the CDM contract provisions that we cover some of the same stuff.

Commissioner Craig-Gerson: The documentation part?

Chairman Murphy: The erosion and sedimentation control, do we want to incorporate the contract provisions? That is what I was curious about. We can just go through and talk about it. So, the first section, is the right to enter and inspect, do we want a pre-construction meeting?

Commissioner Anderson: Has it been confirmed, again, that the city is going to do the resident inspection with their own forces and general construction management?

Chairman Murphy: We haven't had any further discussions about it. Is there more that you would want to know?

Commissioner Anderson: I am a little bit conflicted by this. I think that under the circumstances, these meetings can be a good opportunity to meet with whoever is managing the construction to keep us up-to-speed. We have had the recent experience up the street with the private development and this stuff was blown off.

Chairman Murphy: I want to insist that they do this.

Commissioner Anderson: I am in the same business as Ralph here is and it quite the opposite extreme. Most towns will just say Metcalfe & Eddy, Construction Management, and they will do a good job; and no one shows up at the meetings.

Chairman Murphy: I think having the pre-construction meeting is still useful.

Commissioner Cronan: Are you saying there is no need for one because of the reputation of CDM?

Commissioner Anderson: If the entity doing construction management services is either unknown or someone that we don't have 100% confidence in, then that would be an opportunity for them to know our expectations.

Commissioner Cronan: I do have full confidence in CDM and know that they will do a great job but also know that a lot of projects that I have worked on that some times the contractors do what they want to do and don't think that it is good to get the subcontractors, but to get them in here to know the standards.

Chairman Murphy: Particularly with this project because there is so much work in the resource area. The key is that it is done right.

Commission Anderson: We don't know if it is a full-time resident engineer or part-time. Is the guy registered or is this their first job?

Chairman Murphy: We can have further discussions with the city to make sure how it is done and that it is done right. Do we want a pre-construction meeting?

Commissioner Craig-Gerson: Do you need any other meetings besides that?

Commissioner Anderson: Item 2 is when we would have a CPM scheduled with the contractors so you can sort of anticipate, based on construction, and when we would like to visit the site.

Chairman Murphy: We can take out the compensatory flood storage area. The documentation and Order of Conditions shall be included in all construction contracts and subcontracts. No work to begin on site until the Commission has received copies of construction documents.

Commissioner Cronan: A full set of specs?

Commissioner Anderson: With something like this, you can picture the situation. If something gets changed by a contractor and we simply don't know and here we are working with the city on an Operations Plan. It will just help you. Also, it is a way for all of these mitigation measures that will be incorporated in the contract so until we get the full set of plans and specs, we are taking good faith, obviously, that all of the things will be in there – stock piling, etc.

Commission Pecci: Shame on them, and they are accountable to us.

Commissioner Anderson: It is a city contract and maybe that isn't a good example, but the expectation is that there is no failure on the part of the contractor.

Chairman Murphy: I think it is helpful to talk to the contractor even though it is the city's responsibility to make it all happen. It is up to the city and contractor to plan it out if there is an add-on but knowing what is going to happen and not having to be out there to see it when they do it wrong, like what happened to the middle school, you would know that they were doing something wrong and not to have to be on-site all of the time.

Commissioner Anderson: It instills some confidence.

Chairman Murphy: A copy of the Order of Conditions will be available on site. Copies of all plans and reports cited in the General Conditions should also be kept on site. Order of Conditions shall comply to the interests of the city owned property. Sale of the lot, we can strike that. The erosion and sediment control, the question I have is to use our boilerplate?

Commissioner Pecci: The contractor or subcontractor executing, filling and grading within the resource area must be provided a copy of this Order. To the subcontractors, we don't get the subcontracts, he is not really responsible. How is he held legally responsible if it is not his contract unless we get the contract and verify? We can hold the general responsible but can't touch a sub.

Commissioner Doucette: It is the general's responsibility to make sure that the sub does it right.

Commissioner Pecci: It may never come up. If we don't get the subcontracts, that is one thing that we don't know.

Commissioner Anderson: They have performance bonds and that kind of stuff.

Chairman Murphy: I am not sure and guess the question of whether or not it will be enforceable. If there is a way to tweak it in better, we should do it; but if it is just a matter of we don't know if this would ever be enforceful. I don't know.

Commissioner Pecci: Okay.

Commissioner Doucette: What is the silt sack?

Chairman Murphy: I think the silt sack is in the catch basin and it hangs down. They make it so it hangs down and it holds a little bit. It can hang.

Commissioner Doucette: It looks fine to me.

Chairman Murphy: We will do that. Miscellaneous fuel petroleum products off of the site, responsible for personnel and the on-site foreman or engineer will have a copy of the Order at the site and notification not less than ten days before beginning activities on-site, we have the authority to inform them of a violation and make sure that they comply to the Order, there is a limit to disturbance, maintain all culverts and other drainage systems or detrimental impacts on the resource area, storm water detention basin, the wetlands will be functional and cleaned; and then the ones that I wrote change invert to elevation. Any other thoughts?

Commissioner Doucette: Did you think that the annual meeting was worthwhile or not or is it good enough?

Chairman Murphy: When would construction likely be completed? By next spring?

Ralph Souppa: Our expectation is by February. The pipelines will be in the street and may have some technical pieces.

Chairman Murphy: I think that we can put in an annual meeting, next spring, to see how it went.

Commissioner Doucette: We should meet after one spring to see how it went.

Chairman Murphy: So, why don't we just put in annual meetings at least until the Order of Conditions expires or the Certificate ends as required by us after that time. Can we have a motion to issue an Order of Conditions with the Special Conditions as discussed tonight?

Motion

Commissioner Cronan motioned to issue an Order of Conditions on this project with the Special Conditions as discussed tonight, seconded by Commissioner Craig-Gerson, voted unanimously.

Chairman Murphy: Richard didn't vote. The hearing is closed, and you are all set. I left the form on the printer and will sign it tonight. You have been approved and are all set and will make Bob agree to the filing of the Certificate of Compliance.

Ralph Souppa: Thank you.

Chairman Murphy: Thank you very much.

Minutes

The following minutes need to be approved:

January 4, 2007

January 18, 2007

February 15, 2007

March 1, 2007

April 5, 2007

Motion

Commissioner Cronan motioned to approve the January 4, 2007, January 18, 2007, February 15, 2007, March 1, 2007 and April 5, 2007 minutes as discussed, seconded by Commissioner Doucette, voted unanimously.

Ordinance

The Ordinance was voted down by the Board of Aldermen. The Commissioners discussed the Ordinance. Ron Seybour was provided with some comments and passed along his suggestions. The Commissioners went over Aldermen-at-Large, Ron Seybour's comments on the Ordinance. The Commissioner's agreed to add Ron Seybour's edits to the Ordinance. Monday, the 7th, is the meeting and believe the Ordinance is early on the agenda.

Open Space

The Commission discussed briefly hiring an intern to work for the summer to help with open space issues and to spend up to \$2,000.

Motion

Commissioner Craig-Gerson motioned to hire a college intern authorizing to spend up to \$2,000 to work for the summer on open space, seconded by Commissioner Cronan, all in favor.

Adjourn

The meeting adjourned at 9:30 p.m.

Motion

Commissioner Cronan motioned to adjourn at 9:30 p.m., seconded by Commissioner Doucette, voted unanimously.

Respectfully Submitted,

Meredith L. Beauchesne