

# **MELROSE CONSERVATION COMMISSION**

## **Meeting Minutes**

**April 16, 2009**

**The meeting came to order at 7:30 p.m.**

Present from the Commission were: Kevin Anderson, Richard Doucette, Keith Fleming, Kate Hickey, Susan Murphy and Joseph Nerden.

Absent from the Commission was: Steve Locke.

Present from the public were: Leah Basbanes, Craig Bennett, Michael and Jane Hancock, Paul Morgan, Scott Monroe and Kate Puls.

### **Invoices**

An invoice for secretarial services from Meredith Beauchesne in the amount of \$195.00.

### **MOTION**

Commissioner Anderson motioned to approve the invoice for secretarial services in the amount of \$195, seconded by Commissioner Fleming, voted unanimously.

### **Invoices**

An invoice for reimbursement for MACC courses taken by Kate Hickey in the amount of \$185.00 were reviewed for approval.

### **MOTION**

Commissioner Anderson motioned to approve the invoice for reimbursement for MACC courses taken by Kate Hickey in the amount of \$185, seconded by Commissioner Fleming, voted unanimously.

### **Minutes**

February 5, 2009 meeting minutes

## **MOTION**

Commissioner Doucette motioned to approve the February 5, 2009 meeting minutes, seconded by Commissioner Nerden, voted unanimously but with Commissioner Anderson abstaining.

March 19, 2009 meeting minutes

## **MOTION**

Commissioner Doucette motioned to approve the March 19, 2009 meeting minutes, seconded by Commissioner Anderson, voted unanimously.

## **Correspondence**

Letter from the Beta Group, Inc. regarding Mass Highway Road & Safety Improvements which are being scheduled and are soliciting comments.

A notice from the Eastern Middlesex Mosquito Control regarding spraying.

## **Ell Pond – Certificate of Compliance**

Scott Monroe was present, representing DPW. On April 13, 2009, members conducted a site visit and had some concerns about the riprap at the Ell Pond outlet. Mr. Monroe addressed the commission and stated that the riprap had been installed as part of the landscaping. Most of the stones are 12 inches or larger but that there are a few small stones. The commission told Mr. Monroe that some of the smaller stones were being thrown into the pond and that it had been an issue before at another location. Commissioner Nerden mentioned that he thought the riprap was in disarray and did not look like riprap. Mr. Monroe said they could rearrange the stones, but moving or adding large stones would require a Bobcat. Commissioner Nerden asked about the area drying out. Mr. Monroe said irrigation will be used. Mr. Fleming asked about the concrete that was present at the site. Mr. Monroe said that was there originally. Mr. Anderson asked if there was an active punch list. Mr. Monroe said cleaning up the rip rap would be something new. Mr. Monroe was unsure of when the sod was put down. Commissioner Fleming asked if this had been a city contract or a private contract. Mr. Monroe told the commission that it was not a city contract. Commissioner Anderson asked if the contract had been closed out with the contractor yet. Mr. Monroe thought it would be past the warranty and that it was done under the Park Restoration and Irrigation System.

Commissioner Doucette told Mr. Monroe that the job looked shabby and that it was a very visible location and that the work should have been in better quality. Commissioner Doucette suggested that Mr. Monroe look into what work would be required to fix the riprap and then discuss this topic at the next meeting. Chairman Murphy said that everything else looked fine except for the smaller stones getting into the pond. It was

agreed that the smaller stones would be removed. Commissioner Nerden suggested that the small stones be handpicked out. He said there is one area where the old wall was removed and bank erected that is a trouble spot.

Chairman Murphy told Mr. Monroe that there were also rocks in the stream at Cascade Brook. Commissioner Doucette said that the riprap has blown out already and that the rocks will go into the trash rack. The rocks are too small; they will go through the bars and get into the pipes. Mr. Monroe stated that riprap was placed there to control erosion. Commissioner Doucette restated that the stones were too small and that problems were going to occur. Commissioner Fleming said that it looked like a four bay and is nine inches lower than the stream bed. Chairman Murphy stated that it looked like a level spreader. Commissioner Anderson suggested that the stones be spread out laterally or perpendicular and to monitor it. Commissioner Doucette stated that the rack itself looks amazing.

Chairman Murphy stated that the restoration was put down only to stabilize the area and it was clearly not doing that and that it is too high and getting blown out. The commission wants it spread out and that the excess be removed so that the flow can be maintained.

A third location at the Towers was then discussed. Chairman Murphy stated that there had been a temporary disturbance with the 50-60 arch of filter fabric and that the riprap was not happening. Mr. Monroe stated that the head wall was in the right place and asked the commission if they had any comments or concerns regarding the area out in front of the inlet of the pipe to Ell Pond. Mr. Schenna has said that the area is free and clear. The outlet in front of it picks up the field and the Melrose Towers and that there is no silt in the pipe. Stone was put in this area to protect from silt and to cut down on the phragmites between the field and the Towers. Mr. Doucette said the phragmites are good for siltation and after they die, they can be taken down, just leaving the stalks. A proposal for a maintenance plan was submitted from DPW. Chairman Murphy asked if the clean up was for drainage or because neighbor's want it neat? She advised Mr. Monroe that the Commission is not happy with the proposal as is, but would like to include it as part of the Certificate of Compliance, and therefore, would not be issuing the COC until the proposal is something the Commission can agree with. Mr. Monroe said it would be reviewed again; and said that the town needs the COC for FEMA to close out the project.

### **Aquatic Controls**

Members discussed the proposal from Aquatic Controls. The Commission is more in favor of hydro-raking, but it is very expensive and for the denser areas at Towner's Pond it would cost \$12,000 - \$15,000. Chair asked Mr. Gazaille, from Aquatic Control about skipping a year and he told her the problem wouldn't get too bad in a year's time. Paul Morgan an abutter who lives at 295 Swains Pond Avenue was present and suggested chemically treating the pond. Mr. Doucette said he would rather spend the money on hydro-raking. Commissioner Nerden wonders whether phosphates are coming off the golf course. He agreed with Commissioner Doucette that he would rather do hydro-

raking instead of chemicals. Chairman Murphy explained that Towner's Pond was a man-made pond. Commissioner Anderson said, we have spent the money every year on chemical treatments and there have been no significant changes, it would be better to save and somehow get the extra funds needed for hydro-racking. Mr. Morgan asked if there were any federal funds available. Commissioner Anderson said that none had been found. The Commission feels that the best long-term solution would be to muck it out and to do hydro-racking to actually rip out the plants and roots. It was discussed a couple years ago and the commission tried to seek out other bids and had no luck because there are only two companies in the area that do this type of work. Chairman Murphy would like to talk with DPW and find out what they could do to help keep costs down and would also like to speak with Waltham to find out the details from the work that they had done. This will be further discussed at the May 7, 2009 meeting.

### **77 Swains Pond Avenue** **Enforcement Action for Alteration of a Stream**

Leah Basbanes, from Basbanes Wetland Consultant, was present on behalf of Jane and Michael Hancock. Ms. Basbanes did the Wetland Delineation and the Restoration Plan. Ms. Basbanes passed around some photos to the Commission. Chairman Murphy asked Ms. Basbanes to describe what has been done and what she proposes to do to correct the problem.

Ms. Basbanes explained that there had been a natural waterfall in the back area to the east. There were bricks, debris, glass, trash, etc. in the area. Mr. Hancock had gone in and removed some of the debris. He did sift through and then put it back. There was no new fill but the area was disturbed, and yes, work was done in the wetlands area without a permit. Mr. Hancock did add one level of rocks on the waterfall. The proposal is to remove that fill. Natural wetland soil was found 1 ½ feet down and the plan is to provide natural plantings and seed mix. It would be removed with a bobcat. The bottom of the waterfall is wet and has run-off. There will be additional shrubs and plantings in that area as well.

The old barn building footprints were passed around for review by the commissioners so they could see the contours of the stream channel. The stream flowed under the building and there had been a water wheel there for the lumber yard. The stream always did flow on the property but had always flowed under a property. There had been some wood materials there and some foundation materials both of which have been removed, and Mr. Hancock reseeded and grassed the area. Two trees were taken down because they had caused damage, and some Evergreens were added to that area as well.

Chairman Murphy asked Ms. Basbanes what was going on with the building and what was the future plan. Mr. Hancock had received a letter on March 4, 2009 regarding the slope and had placed a call. Chairman Murphy told Mr. Hancock that no matter what, he had to go through the commission's permit process. Ms. Basbanes stated that Mr. Hancock did receive a letter from the Building Inspector but then received a letter regarding the slope. Mr. Hancock did not know that he had to go through the

Conservation Commission as well. Mr. Hancock stated that he was issued a permit to demolish the building about 3 to 3 ½ years ago. Commissioner Nerden inquired if the old footprint was larger. Mr. Hancock stated that it is smaller now. Commissioner Doucette questioned that a permit may not be needed if it is on the existing slab. Ms. Basbanes explained that her client did perform work in the wetlands and on a stream but that the area had always been a stream channel. Commissioner Fleming mentioned that placing stones was not problematic and that it does provide stability for the bank. Ms. Basbanes didn't notice any disturbance to the wetland or the stream. Commissioner Fleming asked that when the restoration happens, who would be doing the removing of the materials. Ms. Basbanes stated that Mr. Hancock owns a bobcat and would use it and would go down Swains Pond to the driveway. Chairman Murphy stated that there was a lot of fill. Ms. Basbanes said it used to be a dirt pathway and was a dump. Commissioner Nerden did agree that the things that were in the stream predated Mr. Hancock. Ms. Basbanes also stated that with more plantings, it can prevent others from dumping.

Mr. Bennett, a neighbor, was present and stated that Mr. Hancock had performed repeated work in the area. There had been much earth moving done and that an 18-wheeler dump truck had been to the property to spread stone. Mr. Bennett said that the first phase was shortly after Mr. Hancock moved in and the other phase was recently. Chairman Murphy asked Mr. Hancock if he had any previous photos of what the property had looked like when he purchased it. Mr. Hancock said he had pictures. Mr. Hancock said that he had a negative relationship with his neighbor and that known of his stories were true.

Chairman Murphy suggested that Ms. Basbanes bring in some oggers to check the disturbance in the stream tunnel. Ms. Basbanes said that could be done. Ms. Basbanes said that the area where the foundation had been is quite wet and is included in the delineation and that you can see the base crown on the trees so that is an indication of no fill. Commissioner Nerden asked Mr. Hancock to clarify what was on the property when he purchased it. Mr. Hancock explained that there was one rotten building and that it was standing but there was a second building that had already fallen down approximately 50-75 years ago. Commissioner Nerden suggested that the commission look at an aerial and the footprint to get a better idea of the vegetation. The commission agreed that the stream channel was semi-improved or irregular but that it had been made regular and that piling rock on a bank is not a violation. The commission agreed that there had to be a fine line and how much work was too much work. Chairman Murphy reinforced the issue that if Mr. Hancock had come before the commission in the first place, the work probably would have been approved.

Ms. Basbanes suggested that Mr. Hancock would plant more of whatever is needed. Commissioner Doucette asked Ms. Basbanes how she chose the types of plants and the number of plants to be planted. Ms. Basbanes wanted the area to blend in and not stand out. The shrubs will be six to eight feet on center and trees 10-14 feet and, again, based on the type and spreading. There may be one Hemlock which may be larger because it grows more slowly. Commissioner Doucette suggested that the commission see the sizes in the plan before any approval. Commissioner Nerden would like to see a surveyed plan

for future references and to know the elevations. Commissioner Doucette suggested some spot elevations and putting the money towards plantings and removing soil instead of a full surveyed plan. Ms. Basbanes suggested during the summer, and Mr. Hancock said that it would be dry in July or August. Commissioner Doucette suggested removing the dirt in the summer and plantings in the fall. The commission agreed to visit the site frequently and would like a list of milestones given to the commission with the phasing of the work to be performed.

Summary – There was a disturbance on the property. There had been a building there, and the stream ran under the building. The commission wants to know the sizes and types of any and all plantings, the commission wants to know milestones to inspect any and all work and will approve that milestone before continuing onto another step. All work is orientated to the GIS that are available for the lot lines and building footprint contours. The commission will reconsider this matter on May 7, 2009.

Mr. Hancock asked the commission if he would have to get a permit through the commission for work being done on the barn. Chairman Murphy asked the commission if a NOI was needed or if it was okay because it was on an existing slab. Commissioner Doucette said that there was no need and that the Building Inspector would confirm that it was on the old slab with no alteration. There would be no need for a permit from the Conservation Commission because there was no net change.

Mr. Hancock explained that he has to put the foundation under the existing slab for the Building Inspector and that it is 10-inch thick concrete slab. Chairman Murphy told Mr. Hancock that if he needs a permit for the excavation part of it, he then would have to get a permit from the Conservation Commission. Commissioner Doucette stated that this was a separate issue and that he would have to file with conservation first before doing the foundation. The commission agreed that a fee of \$150 would be charged which is the fee allowed under the Restoration Enforcement Order. Mr. Hancock gave the commissioners permission to walk his property at any time. The commissioners agreed to have a site visit the week of the 27<sup>th</sup>. Chairman Murphy reminded Ms. Basbanes that the revised Restoration Plan had to be received by the 30<sup>th</sup>.

### **Adjourn**

**Commissioner Doucette motioned to adjourn the meeting at 9:30 p.m., seconded by Commissioner Anderson, voted unanimously.**

Respectfully Submitted,

Meredith L. Beauchesne