

**BEDFORD CONSERVATION COMMISSION**

**Minutes of Meeting**

**May 14, 2014**

**Selectmen's Meeting Room**

**Town Hall, Bedford, MA**

**PRESENT:** John Willson, Chair; Steven Hagan, Vice-Chair; John Britton, Clerk; Lori Eggert; Allan Wirth; Andreas Uthoff  
Elizabeth Bagdonas, Conservation Administrator; Stephanie Ide,  
Conservation Department Assistant

**ABSENT:** Tim Gray

The meeting was called to order at 7:00 pm.

Mr. Britton read the Public Record Statement as approved by Town Counsel on 9/10/12.

**Continuation of Public Hearing – Notice of Intent:** 200 Hanscom Drive – Massport VMP

Mr. Tom Ennis of Massachusetts Port Authority (Massport) was present before the Commission to continue the discussion on the proposed removal of vegetation that currently penetrates, or threatens to penetrate the existing airspace surfaces at L.G. Hanscom Field and adjacent areas. Massport has submitted the update of an existing, airport-wide Vegetation Management Plan (VMP), entitled “L.G. Hanscom Field 2014-2018 Vegetation Management Plan Update” for the on-going control and management of vegetative obstructions to navigable airspace at L.G. Hanscom Field and adjacent areas. On-going control and management is to be continued in all four of the Hanscom-area towns (Bedford, Concord, Lexington and Lincoln). In Bedford, the project will take place within Bordering Vegetated Wetlands, Land Under Water Bodies and Waterways, Bordering Land Subject to Flooding, Bank, the Riverfront Area and the 100-foot buffer zone to Bordering Vegetated Wetland. The project locations are within the Runway 23 and 29 areas, to include the Shawsheen River and Hartwell Brook areas, and the Jordan Conservation Area.

Mr. Ennis stated that the site visit had occurred with Ms. Bagdonas and a few members of the Commission. Mr. Ennis did receive Ms. Bagdonas's memo dated May 13, 2014. Ms. Bagdonas stated that managing woodlands may apply to Jordan and that the five year plan is not the same as the yearly operational maintenance plan. Ms. Bagdonas recommended that the Commission hire a forestry specialist to assist them. Mr. Ennis suggested two plots for an open canopy area and recommended deer fencing in one of the areas to see if it helps with plant growth. Mr. Ennis stated that he was unsure if Massport signed up for a reforestation plan within the Jordan Conservation Area but that Massport is willing to work with the Commission on it. Mr. Ennis recommended that the Commission include a condition in the Order of Conditions to have Massport work with a forestry specialist and develop a plan within a 6 month period. He stated that he doesn't

think two weeks will be enough time to come up with a forestry plan and is concerned about not closing the public hearing at the meeting of May 28, 2014. Mr. Hagan asked Mr. Ennis what the timeline would be for the cutting. Mr. Ennis said that topping would be done right away with the rest of the work to take place during frozen conditions. Mr. Wirth asked if Mr. Ennis believes the obstructions are better now than they were ten years ago. Mr. Ennis said that an obstruction is an obstruction. Mr. Wirth said that his point is that it is less urgent. Mr. Willson stated that he believes the FAA regulations state that if an obstruction is identified it needs to be removed. Ms. Eggert said that she does not dispute that the obstructions need to be removed but that she does dispute that it needs to happen right away. Ms. Eggert likes the idea of hiring a forester. Mr. Wilson said the language of a forestry condition to include the development of a plan will be worked out during the deliberations of the Order at the meeting of May 28, 2014.

A motion was made by Mr. Uthoff and seconded by Mr. Wirth to continue the public hearing to the meeting of May 28, 2014. The motion passed 6-0-0.

### **Request for Determination of Applicability: 8 Sheridan Road**

A motion was made and seconded to waive the reading of the public notice. The motion passed 6-0-0. Mr. Scott Jones of Westchester Modular Homes of Greater Boston, Inc. and Mr. Kurt Kreiter, owner of 8 Sheridan Road, were present before the Commission to discuss the proposed demolition of a single family home within the 100-foot buffer zone to bordering vegetated wetland. Ms. Bagdonas stated that the location of the wetland as it appears on the Town map seems correct.

A motion was made by Mr. Britton and seconded by Mr. Uthoff to issue a negative Determination for reason three and a positive Determination for reason five. The motion passed 6-0-0. The Determination was then signed.

### **Continuation of Request for Determination of Applicability: 398 Davis Road**

Ms. Pamela Brown of Brown and Brown, PC was present before the Commission on behalf of Ferrante Construction to continue the discussion regarding the proposed site work associated with the construction of a single family house within the 100-foot buffer zone to bordering vegetated wetland. Ms. Brown stated that after a formal delineation was done, it was evident that she needed to proceed with a Notice of Intent for the property at 398 Davis Road which she has also filed.

A motion was made by Mr. Wirth and seconded by Mr. Hagan to issue a positive Determination for reasons 1, 2A, 3, 4 and 5. The motion passed 6-0-0, after which the Determination was signed.

### **Public Hearing – Notice of Intent: 398 Davis Road**

A motion was made and seconded to waive the reading of the public notice. The motion passed 6-0-0. Ms. Pamela Brown of Brown and Brown, PC was present before the Commission on behalf of Ferrante Construction and Mr. Michael Cotton to discuss the proposed construction of a single family home and filling of up to 500 square feet of

Wetland within Bordering Vegetated Wetland and the 100-foot buffer zone to Bordering Vegetated Wetland.

Ms. Brown stated that a new delineation has shown that a wetland finger comes up the left side of the property. The applicant proposes to fill 500 square feet of that finger so the applicant can shift the house outside of the 50 foot buffer zone. Ms. Brown submitted a new plan to the Commission which shows a compensation area on the back right of the property. Mr. Wirth asked if the compensation area was going to remain the same grade and pointed out that the grade would need to be lowered for it to be a replication area. Ms. Bagdonas asked Ms. Brown to provide the Commission with a narrative of how the project will comply with the bylaw. Mr. Britton asked if the wetland replication area will do possible harm to the abutter. Ms. Brown stated that it will create more of a buffer zone on the abutting property. Ms. Bagdonas stated that there will have to be findings in the Order of Conditions that make it clear that this is a special case. Ms. Bagdonas then reviewed her memo dated May 13, 2014 with the Commission. Ms. Bagdonas stated that a buffer to the replication area is necessary to protect it and that the area around the replication area should not be mowed. Ms. Brown stated that she can move the row of proposed shrubs forward ten feet to provide a buffer. Mr. Willson stated that permanent bounds were discussed during the site visit. Ms. Bagdonas stated that it would be best to require a few permanent bounds.

Mr. Dan Crews of 396 Davis Road, abutter to 398 Davis Road stated that he has no objections to the proposed project but asked about the wetland map being updated to include the new delineation that was just completed at 398 Davis Road. Mr. Crews is considering an addition and new deck and would like to know if the wetland as delineated is the closest point to his house. Ms. Bagdonas stated that his property would be reviewed separately and that it would be up to the Commission to decide if Mr. Crews needs a delineation.

Ms. Bagdonas stated that Ms. Brown should submit an updated bylaw compliance statement and a revised plan showing the proposed buffer zone line to the wetland replication area. Ms. Brown stated that the haybale line has been installed and asked that the Commission approve having Ms. Bagdonas sign off on the demo permit for 398 Davis Road so that Mr. Ferrante can demo the house prior to the close of the hearing. Ms. Bagdonas stated that she does not sign off on permits prior to the issuance of the Order of Conditions. Ms. Bagdonas stated that the only way she would be comfortable with signing off on the demo is if another haybale line would be installed at the back of the house. Submit a plan with a letter acknowledging work.

A motion was made by Mr. Uthoff to continue the public hearing to the meeting of May 28, 2014 and to approve the sign off of the demo permit contingent upon receipt of a plan showing the new haybale line and the installation of the additional haybale line at the back of the house that shall be checked and approved by Ms. Bagdonas or a member of the Commission. Ms. Bagdonas stated that she misspoke and that the demo permit should not be signed off on or issued prior to the issuance of the Order of Conditions as it sets up other people to come in and request the same. Ms. Brown stated her objection to Ms. Bagdonas's statement, saying that failure to sign off on the demo permit will cause another five week delay. Mr. Hagan stated that Mr. Uthoff's motion was on the floor and he seconded the motion. Mr. Willson said that the Commission will

have to vote on the motion. The motion passed 3-2-1 with Mr. Willson and Mr. Wirth voting against and Ms. Eggert abstaining.

**Request for Determination of Applicability: 1 Hamilton Road**

A motion was made and seconded to waive the reading of the public notice. The motion passed 6-0-0. Mr. Timothy Regan was present before the Commission for the previous removal of several trees within Bordering Vegetated Wetland and the buffer zone to Bank, Land Under Waterway and Bordering Vegetated Wetland. Mr. Regan stated that he had hired a tree company to trim some branches while he was on vacation. When he and his wife had returned from vacation they were shocked to see that 10 pine trees and 2 oak trees had been cut. Mr. Regan asked about grinding the stumps and stated that approximately 18 trees and bushes will be replanted within the cut area. The Commission determined that it would be best to not allow stump grinding.

A motion was made by Mr. Uthoff and seconded by Mr. Hagan to issue a negative Determination for reason three and a positive Determination for reason five with the following conditions:

1. No heavy vehicles/machinery within the wetland or buffer area.
2. Photographs shall be submitted to the Conservation office after the trees/shrubs have been planted.

The motion passed 6-0-0, after which the Determination was signed.

**Public Hearing – Notice of Resource Area Delineation: 2 Irene Road**

A motion was made and seconded to waive the reading of the public notice. The motion passed 6-0-0. Mr. Paul Marcus of PJM Construction was present before the Commission to discuss the proposed delineation at 2 Irene Road. Mr. Marcus submitted a revised plan to the Commission reflecting the wetland flag changes that were discussed with Ms. Bagdonas during a site visit on May 9, 2014. Ms. Bagdonas and Mr. Marcus discussed an error on the plan and Mr. Marcus will submit a revision.

A motion was made by Mr. Uthoff and seconded by Mr. Britton to close the public hearing. The motion passed 6-0-0. A motion was made by Mr. Uthoff and seconded by Mr. Britton to issue the Order of Resource Area Delineation (ORAD) upon receipt of the revised plans. The motion passed 6-0-0, after which the ORAD was signed.

**Public Hearing – Notice of Intent: Old Middlesex Road**

A motion was made and seconded to waive the reading of the public notice. The motion passed 6-0-0. Mr. Michael Mahoney was present before the Commission to discuss the proposed development of a trail and two bog bridges within Bordering Vegetated Wetland and the 100-foot buffer zone to Bordering Vegetated Wetland. The project is located on 10 Old Middlesex Road & Middlesex Road and will be Michaels Eagle Scout project.

### **Order of Conditions: Old Middlesex Road**

The Commission reviewed the draft Order of Conditions as prepared by Ms. Bagdonas. A motion was made by Mr. Uthoff and seconded by Mr. Hagan to issue the Order of Conditions for Old Middlesex Road as prepared by Ms. Bagdonas. The motion passed 6-0-0. The Order of Conditions was then signed.

### **Appraisal Cost:**

Ms. Bagdonas stated that the Land Acquisition Committee is looking to have a piece of land on Chelmsford Road appraised. The land would provide a connection between the Minnie Reid Conservation Area and Coffin Conservation Areas. The appraisal may be paid from the Community Preservation Fund but the Committee asks that you approve funding for the appraisal from the Conservation Fund in case it is needed.

A motion was made by Mr. Uthoff and seconded by Mr. Wirth to approve funding if needed from the Conservation Fund. The motion passed 6-0-0.

### **Remote Participation:**

Ms. Bagdonas stated that the Selectmen would like the Commissions opinion on remote participation for meetings. The Commission stated that they do not like the idea of remote participation because it is difficult to understand who is speaking. The Commission did not take a vote.

### **Certificate of Compliance: 29 Liberty Road & 33 Liberty Road**

Ms. Pamela Brown of Brown and Brown, PC was present before the Commission to discuss resolving the issues at 29 and 33 Liberty Road in order to obtain Certificates of Compliance for the properties as both are set to close soon. Ms. Bagdonas stated that the issue for all of the properties on that side of the street on Liberty Road is that most homeowners are ignoring the buffer zone requirements and expanding their lawns. Ms. Bagdonas recommended that Ms. Brown develop a maintenance statement for both properties prior to the closings which should be signed by the new owners explaining the requirements for property maintenance and the limit of work for the properties.

A motion was made by Mr. Wirth and seconded by Ms. Eggert to require the owners of 29 Liberty Road to remove the play structure, remove the grass that is within the 25 foot buffer area and to plant a native wetland seed mix in order to obtain a Certificate of Compliance. This should be followed by a site visit. The motion passed 5-0-1 with Mr. Hagan abstaining. The request for a Certificate of Compliance will be on the meeting agenda of May 28, 2014.

A motion was made by Mr. Britton and seconded by Mr. Uthoff to require the owners of 33 Liberty Road to remove the crushed stone that is within the 25 foot buffer area and to plant a native wetland seed mix. The motion passed 6-0-0. The request for a Certificate of Compliance will be on the meeting agenda of May 28, 2014.

*A motion was made and seconded to adjourn the meeting. The motion passed 6-0-0 adjourning the meeting.*

*The meeting was adjourned at 10:15 pm.*

*The minutes were prepared by Stephanie Ide.*

*The minutes were approved at the meeting of June 11, 2014.*