

Minutes

Lee Conservation Commission

Land Use Room Lee Town Hall

Wednesday, September 7, 2016

Commissioners Present: Kathy Arment, Chair; Stu Dalheim; John Philpott; John Coty, Jr.; James Wickham

Commissioners Absent: Marilyn Hansen

Members of the Public Present: Matt Puntin, Bill Dillof, Mark Curtin, Barbara Palmer, Mike McCauley, Tyringham Conservation Commission; Andrew Madden, MASS DFW; Sarah Gapinski, Joseph Hanis, Goose Pond Maintenance District; Diane and Peter Naventi, Lee Land Owners; Lou and Joyce DiGrigoli, Stockbridge Terrace LLC; Emily Stockman, Stockman Associates; Bob Fournier, SK Design Group; Anthony Cunagin, AWC Construction; Mike Kulig, Berkshire Engineering; Ken Wagner, Water Resource Service, Inc.

- **Notice of Intent Goose Pond Maintenance District DEP #196-0432 Drawdown of Goose Pond**
Before a new Order can be issued, the Lee Commission needs to do a Certificate of Compliance for the existing Order for a drawdown issued in 2004. **Mr. Philpott recuses himself.**

Motion made and seconded to approve a Certificate of Compliance. Unanimous approval.

Mr. Puntin of the Tyringham Commission recuses himself. Comments from emails received were read (on file). Mr. Wagner presented the project. Since Goose Pond is a Great Pond, a Chapter 91 license is needed; this has not been done in the past but as new applications are submitted, the state is looking for it to be done. He stated that the GEIR is not a regulation, but a guidance document and that the drawdown doesn't have to comply with the GEIR. He stated that the NOI asks for a 6 ft./3 year drawdown; also, the refill being completed by 30 days after ice-out, not by April 1st as in the GEIR. Comments from DEP were addressed. Mr. Madden from the Department of Fisheries and Wildlife presented a letter (on file) with his comments. He stated that if a drawdown is 6 ft. it is appropriate for DFW to comment. The burden to proof is on the applicant to show that there is no impact on the resource areas. Also, the conservative approach is to do a 6 ft. drawdown every 3 years. The letter provides concerns about the flows from Goose Pond Brook and the effect on salmonids; lack of a detailed method for compliance, and the proposed timing of 30 days after ice out, and the detrimental impacts on fish spawning and pre-spawning behavior. DFW recommends that the April 1st deadline for a refill be adhered to. Mr. Janis commented that the dam is an emergency dam and consideration needed to be given to the impact of the flow over the dam for the sake of public safety. It was noted that there are Emergency Permits which could be used if there is a danger in this regard. Mr. Madden also noted that checking off the boxes for fishery and habitat enhancement was incorrect in his opinion. A request was made by the Commission for Mr. Wagner to work on a compromise between the NOI requests and the DFW recommendations. **A motion made and seconded by both Commissions to continue to the September 21st meeting as a lot of new**

information was presented. **Unanimous approval by the Lee Commission and the Tyringham Commission.**

Mr. Philpott returns to the meeting.

- **Request for Determination of Applicability Berkshire Sterile Manufacturing Inc. 480 Pleasant Street Construction of a retaining wall and a loading dock area** Mr. Kulig presented. This project is in the 100 ft. buffer zone to a vegetated wetland. The area is already gravel. The grade changes 4-5 feet so a retaining wall will be put in to stabilize the area. The loading dock is needed for the trucks backing up to the building. **Motion made and seconded to issue a negative #3 determination with the conditions that the erosion controls be installed before any work begins and before and after photos be submitted to the Commission. Unanimous approval**
- **Anthony Cunagin Presentation of work at the intersection of Erskine and Golden Hill Road** Mr. Fournier presented the plans of the area. There was a development that was started and never finished. Mr. Cunagin is now finishing it. The area in question is at the corner of Erskine and Golden Hill Road. Drainage from the road was going into it and cattails have grown there. There is no watershed. It needs a drainage pipe so the water will go into the pipe under the road. It is not a jurisdictional area. **The Commission requests that documentation be submitted to the Commission.**
- **Update on Stockbridge Terrace LLC** There has been a request for a building permit for another building on the site--#9. Mr. DiGrigoli stated that this was a part of the original plan that had all the calculations for the storm water plan. There are still questions as to what is going on with the flow of water going onto the property across the street. Ms. Stockman, representing the Naventi's, stated that there is non-compliance with the storm water regulations. There is significant evidence that there is damage downstream. Mr. Naventi gave permission for the Commission to come on his property but stated that he would like to be there when they did. Ms. Stockman has video coverage showing some flow from the basins, overflow, etc. and will consolidate this for the Commission. The Commission would like a site visit when it is raining. Ms. Arment will arrange this. Ms. Stockman noted that the wetlands are being filled. Mr. DiGrigoli asked about the Commission signing off on the building permit. Ms. Arment will consult with Town Counsel as to whether the Commission should sign off on it.
- **Approval of the September 7, 2016 minutes. Motion made and seconded to approve the minutes. Unanimous approval.**
- **Motion made and seconded to adjourn the meeting at 8:30 PM. Unanimous approval**

Documents: NOI Goose Pond Drawdown; Emails re drawdown; Letter from DFW re drawdown; DEP Comments re drawdown; RDA Berkshire Sterile

Respectfully submitted:

Kathleen Vsetecka

(A call was made to Town Counsel after the meeting—he stated that the Commission should not sign off on the permit as long as there is an appeal before the court.)