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**CONSERVATION COMMISSION MEETING
DECEMBER 7, 2015 @ 6:30 PM - CITY HALL AUDITORIUM
62 FRIEND STREET, Amesbury, MA - Meeting started at 6:37 PM**

Present: Steve Langlois, Suzanne Egan, Kinsey Boehl, Alan Corey.

Absent: None.

Also present: John Lopez, Agent; Paul Bibaud, Recording Secretary

MINUTES: Nov. 16, 2015: Motion by Alan Corey to accept minutes as presented. Motion was seconded by Suzanne Egan. AIF.

ADMINISTRATION:

Amesbury Heights OoC (002-0936) 36 Haverhill Road, Boston North Properties, LLC

John Lopez: At the previous meeting, there were some outstanding issues as documented by the commission's consultant, Stantec. The request for a modification in the installation of the erosion control was remanded to the applicant for further proceedings consistent with the Stantec memo to address those outstanding issues. At the time, the commission expressed an interest in entertaining the request, but wanted those outstanding issues to be addressed and closed. Also requested that our representative from Stantec be present tonight, Michael Leach, to provide both written and verbal confirmation.

Michael Leach, Stantec: You have the information from Pilot Construction had submitted as to how they have addressed the OoC. We went through that information and we did provide, on Sept. 3, a letter to ConCom indicating how they met the conditions for pre-construction. Subsequent to that submittal, they did provide a copy of the OoC that has been recorded. Based on information they presented, it appears the information and how they want to proceed seems as a good choice. They have met all conditions to begin construction.

John Lopez: I've forwarded you many e-mails lately, keeping everyone in the loop. There was a tremendous amount of work that took place between tonight and at the previous meeting, both on the applicants side and on Stantec's side to close out these outstanding issues. Both sides deserve congratulations for putting in the extra time and effort to make this happen.

Suzanne Egan: It was my understanding that this was not here for approval to begin construction, but it was to modify. Am I right? Wasn't this to modify the OoC so they would only have to put the erosion barrier into a limited area, vs. the area required in the OoC?

Michael Leach: Yes, and I will let them speak as to how they want to proceed on this project. There are still two requests that they have in their letter, and I would, again, want to have them speak to those requests to the ConCom on a couple items: 1. reviewing area within the beginning portion of the project, within 100 foot buffer, and the dumpster, I recommend to at least have them make the presentation for ConCom to review and approve.

APPROVED

Suzanne Egan: OK, I thought you were here tonight to tell us if they have complied to what they were supposed to, prior to this.

Michael Leach: They have, but they are also asking for additional information.

Drew Carter with Pilot Construction: I put together the letter that you all have before you. The two new items, one being that in part of putting in our erosion control, we discovered what appears to be a dumping ground for tires and old washing machines. We understand the OoC does not allow us to put a dumpster within 100 feet of the wetlands, but we'd like to do this right up near the entrance so that we can remove all this debris that we discovered. The second item is the refueling. As we are building this road in, there is nowhere for us to refuel the equipment except to bring a truck in and refuel the equipment right at the entrance. Until we can get the road built all the way into the site, then we can set up a safe refueling area, far enough away from any wetlands. We have included a proposed refueling program, having spill kits on hand, as well as enough personnel to keep an eye on the operation. Right now, for this initial operation, the fueling is probably 75 feet from the wetlands.

Steve Langlois: So once you get everything out, then the dumpster goes, and then refueling will be ongoing until...

Drew Carter: Until the road is established all the way into the site and we can get into the highlands, if you will. And the dumpster, the sooner we can get it out of our way, the better it will be for everybody.

John Lopez: So this would just change the existing OoC to include these and make note that these changes are now incorporated into the OoC which has been amended or modified, and just ask that this be noted when the request for a CoC is submitted, that these minutes be included in the request, just for documentation and proof, to remind the ConCom this change was approved. These plans now become the plan of record. Also, you have before you an extension for funding of Stantec inspections for two months equaling \$10,600 for monitoring fees.

Motion was made by Suzanne Egan to accept the amended OoC pursuant to the Stantec document dated Dec. 3, 2015, Amesbury Heights project, 36 Haverhill Rd. OoC 002-0936, with the additional provision that the schedule will be amended to show the erosion control implementation and condition that to the steps to be taken on the project. Motion was seconded by Alan Corey. AIF.

Motion was made by Suzanne Egan to approve the contract extension for Stantec and approve this Stantec document dated Dec. 7, 2015 File 195 113 119. Second by Alan Corey. AIF

Proposed Community Bonfire at Woodsom Farm - (Haraske)

David Haraske, 8 Moody Street: The bonfire is a recent proposal. There was no formal organization set up for it. For now, the applicant would've been the city itself. But insurance issues could be an issue. The insurance is still a hang up, and the city may not want to do it for now. Fire dept is ok with the idea, they have water and electricity. Parking was worked out with DPW. We're here tonight to discuss environmental impact

APPROVED

it would have on Woodsom itself. John had a site visit with DPW and we found a great spot between the main parking area on the left on the south side, and the other parking area on the north on the right side. The bonfire would be to recycle Christmas trees and double as a celebratory event, since little goes on in Jan. That was the intent. It may or may not happen this year, due to lack of insurance. We'll see. But I did want to come before the board to discuss it. In addition of the bonfire, this would be a public event with food vendors, a beer vendor roped off and the fire area needs to be roped off also. That is the general narrative of the proposal. I would personally reseed the spot where the fire was.

Steve Langlois: Our only thing would be to make sure you are within a jurisdictional area.

John Lopez: ConCom would have two levels of management here of jurisdiction. One is pursuant to the wetlands act and Amesbury Ordinance relative to a wetland area. Two, general management of the entire farm, or that section of the farm by an act of the Amesbury Municipal Council. But this is non-jurisdictional, so it would only amount to general management as designated by the council. A burn or bonfire permit would be needed, and ConCom can even defer to the fire dept for a decision, since they are the experts.

Steve Langlois: I have no experience with large bonfires, so for me to make a decision on anything, it may be nice to get input from another area that does this pretty regularly and is aware of all the issues.

Kinsey Boehl: I think if it is going to be reseeded and all the ash taken care of, it would be fine. If AFD is ok with it, it's on non jurisdictional land, so it seems fine to me. DPW will clean up the ash.

Motion was made by Suzanne Egan to recommend that the bonfire takes place in January as recommended by the city and conditioned by City and reseed later. It all depends on insurance for the event. Motion was seconded by Alan Corey. AIF.

CONTINUED BUSINESS:

NOI (002-1096) - 127 Kimball Road - (Scimone)

Mr. Roscoe from Cammett Engineering is not present for this hearing.

John Lopez: ConCom is in receipt of a BSC report from Dec. 3, 2015. BSC feels that the project is in compliance and that the waiver requests have all been itemized and feels that, if granted, this would serve as mitigation and that it is a site improvement. Given the applicant's reduction of impervious surface, this seems to be a net ecological improvement and could be considered as mitigation for granting of the waivers. But this is a positive recommendation for the project.

Motion was made by Suzanne Egan to approve the OoC as proposed with BSC Requirement for the property at 127 Kimball Road.

Motion was seconded by Kinsey Boehl. AIF

APPROVED

Motion to close the hearing was made by Suzanne Egan and seconded by Kinsey Boehl. AIF.

NOI (local only) - 9-13 South Hampton Road - (Quintal) - Continued to Jan. 4th.

John Lopez: This is for the proposed construction of I believe two single family houses. The applicant has stated that on site, there is an isolated vegetated wetland. It is jurisdictional because the applicant claimed there was the isolated vegetated wetland, subject only to the Amesbury Ordinance. ConCom selected BSC as the consultant. A site visit was conducted. You requested two reviews: one relevant to drainage and runoff, two, to wetlands. You have in your packets the wetlands review portion of the review dated Nov. 2, 2015, in which Ms. Davies states that there is a bordering vegetated wetland that was identified on site. As such, the whole site is now jurisdictional under state and local. Ms. Davies recommends that this be remanded for further proceedings, meaning that a NOI should be submitted under the wetlands act, as well. I sent this to the applicant, and the attorney and a wetlands consultant, and I asked "looks like there is a lot to do. Do you want to continue this?" And I never heard anything back. But if you ask me for a recommendation, I would recommend that this be remanded to the applicant for further proceedings consistent with the BSC Group review dated Dec. 2, 2015.

Motion was made by Suzanne Egan to amend the NOI in conformance with the BSC recommendation. I also ask ConCom to remand this back to the applicant. We will continue this hearing to the February 1st meeting. Motion was seconded by Alan Corey. AIF.

NOI (002-1132) - 5 Merrill Street - (Linden) - Continued to Jan. 4 meeting.

NOI (002-1129) - 60, 75 & 77 Merrimac Street - (Hatters Point Marina Parking, LLC

Applicant is not present for the meeting tonight.

John Lopez: This is in reference to a marina building. The issue here is that ConCom has received plans, the PLB has received modified plans, I contacted the applicant's representative about 2 weeks ago, and they had not forwarded plans to our consultant, Stantec. I asked them to do so, and I also inquired as to whether or not the funds were forwarded to cover the Stantec expenses. They couldn't tell me at that point. I just spoke with our Stantec representative this evening by phone before this meeting, and he has not received the funds yet. So I think this is ripe for continuance, and I would recommend the February 1st meeting.

Motion by Suzanne Egan to continue to the Feb. 1 meeting, and seconded by Alan Corey. AIF.

NEW BUSINESS:

NOI (XXX-XXXX) - 28 Lake Attitash Road - (Norwood)

John Lopez: This is in reference to a demolition of an existing structure and the construction of a single family replacement structure. No DEP file number has been issued, so ConCom cannot act on this tonight, other than to open the hearing. I don't

APPROVED

know if you want to do a peer review on this, but I've taken the liberty to contact Mill River and soliciting a contract from them.

John Paulson, Atlantic Engineering: We submitted a NOI for this site. This is the existing house and conditions. No one has lived in it for 15-18 years. There is a tree growing out of it. There is a brick walkway, a shed, a big driveway, trees on the property. I show a 35 foot buffer, the 50 foot buffer, and the 100 foot buffer. The existing house is out of the 50 foot buffer. The existing porch that is there is in the 50 foot buffer by a little bit. There is a footprint of the site from the back and the front, then from the wall which will be left because it is in good shape, but the stairs will need some tender loving care resetting the steps in it. Property contours are shown. The site is totally out of the flood plain. The edge of the wall is the edge of the jurisdictional area. The new owners of the property are planning to take down the existing house, take out the shed, take out the driveway, and rebuild the new house. The people that owned this house also owned a house across the street a little bit that has actually been sold. There was family in fighting, I think, went into receivership and was sold. The second plan you have is the existing conditions plan with details on it. The new house is roughly the same size and footprint. The porch may be a bit bigger than the existing one. The driveway will be pervious pavers. The various walkways will also be pervious pavers. This is the deck here, it is outside the 35 feet buffer but inside the 50 foot buffer. That will be an open deck with stone underneath it, on the two sides here, and a pervious pavement patio underneath. It is a single story house, but this side of the house is a walk out to the lake. We changed the grading on the site a little bit to accommodate the walk out, but not a whole lot.

Motion was made by Suzanne Egan to retain Mill River as the third party reviewer. Motion was seconded by Alan Corey. AIF.

Motion by Suzanne Egan to continue this to February 1, 2016. Motion was seconded by Kinsey Boehl. AIF.

Request for Certificate of Compliance – 44R Elm Street - (Hardy)

John Lopez: This is a confusing request. Also, you'll notice that there is a NOI following this. I'm wondering if this should be opened up at the same time? So here is thing. Perhaps the applicant's representative can provide dates and more specifics. The request for a Certificate of Compliance is in support of an approved installation of a sewer line which would disconnect a septic system. That project was never done.

Taylor Turbide, Millenium Engineering: It's a little more complicated than that. I'll go over that later.

John Lopez: Because there was no work was ever done, and in consultation with DEP, they said that that probably isn't necessary to grant a Cert of Compliance because no work was ever done. So that OoC was never recorded and it just kind of fades away. The NOI is submitted pursuant to an emergency cert which was issued last summer for the installation of a (recorder was garbled for a few seconds) to disconnect the septic system. It was an emergency because the septic system had failed, this was a riverfront area. The site for the sewer line was a parking lot, so it didn't represent any significant disturbance. So we have a NOI for what the original Cert of Compliance is in support of. So I'm

thinking that we could hold the Cert. of Compliance, and transfer it to the current NOI, if that makes any sense.

Taylor Turbide: Yes, since you made out an emergency certificate...

John Lopez: ...which required a NOI.

Taylor Turbide: But does that qualify as a certificate of compliance?

John Lopez: So there would be a certificate, then go all through the machinations, then submit a request for Cert of Compliance with the as-built plan, which is essentially the plan that we've done...

Taylor Turbide: I think your plan is reasonable and I'll demonstrate why a little later. Essentially, the Cert of Compliance was sort of intended to apply to both notices.

(recorder was very static laden and garbled again).

Taylor Turbide: Back in 2005, Ford Engineering, on behalf of 44R Elm Street Realty Trust, filed a NOI with this board. The NOI was quite extensive (static on recorder). Storm water management was down here, plantings, rip rapping to the river, reconstructing the roof. They went through all this and never did a thing. It was never put to record, as required. Then this summer, obviously there was a failed septic system, which I presume came up during their Title 5 inspections. So John came out and issued an emergency order. At the time, I don't think John was aware of this. One of the improvements on this plan was to detach the septic system which if it wasn't failing at the time, they knew it was going to fail. They were going to disconnect it, abandon the septic system, leach field, and just leave it in the ground, which is about 20 feet from the river, so a failed system in that area is not very good. So what we've done is do an as-built survey of it. We didn't design the system obviously, so we verified the design. There is a two inch main that runs up the street into a sewer main. Ring Street was repaved where it was cut. Through here it is all gravel, so no need to repave. It has been restored to its previous condition. Pump design matches, all those things matched, we looked at all that. We saw no issue with what was installed there. Nothing was done except the installation of the sewer. That is it. Again, it was previously approved by this board, but that expired as an approval. So we are now refiling with you a NOI per the emergency action to install this sewer. That is all that is proposed to be done. That is all that has been done. At this time, nothing else is anticipated to be done, at least in the near future. So the NOI is to address the emergency action and it was a situation where you had a failed system 20 feet from the river, so rather than go through a 2-3 month process, John wanted it fixed right away. Part of the emergency order was that we would have to come before ConCom with a note showing what was done and making sure nothing else was needed. We abandoned the old NOI as a formality, so there would be something on record to reflect that, next time title issues come up, etc. We then filed that notice. Now, John is suggesting in addition to that, have that Certificate apply to this as well, given that the work is already done, already been inspected by a third party engineer, which would be us, given that we didn't do the design...

John Lopez: But the old expired DEP number is on this request for Certificate of Compliance.

APPROVED

Taylor Turbide: Right. I would recommend regardless, you should still order that certificate, regardless of what DEP says. The reason being, next time they go to sell, that will come up again.

John Lopez: That is fine with me.

Suzanne Egan: The Certificate of Compliance that we would issue would only be for the work that was done, not the work ...

Taylor Turbide: The certificate, if you look at what I checked off, I checked off two boxes. One being for partial work that was done, being the sewer, and the other one for work that was not done. There's 3 options on that, one option was nothing was done, one option was partially done and the last option was expired, etc. I checked off boxes 2 and 3 under Section 5.

John Lopez: I think this is the cleanest, most direct way to terminate any further controversy surrounding this outstanding order. But I agree with you.

Taylor Turbide: I think they should absolutely record a certificate. I would love to add the certificate for this to it, if we can do that. If we can't...

John Lopez: I think we have to file a new Certificate of Compliance. But this issue will come up 20 years from now.

Kinsey Boehl: Is there an NOI for the request for certificate of compliance? The DEP number?

Taylor Turbide: Yes. The DEP number is at the top of the certificate. 002-0880.

Alan Corey: So nothing is going to be done underground. It's all done.

Taylor Turbide: Yes. It was done in August, I believe.

John Lopez: I believe the emergency cert was done in late July or so. And there was documentation from the health agent provided, etc.

Motion was made by Kinsey Boehl to issue the Certificate of Compliance (002-0880). Motion was seconded by Suzanne Egan. AIF.

Motion was made by Kinsey Boehl to approve the NOI for work completed under the emergency certificate for DEP 002-1134 for 44R Elm Street. Motion was seconded by Alan Corey. AIF.

Motion to close the hearing was made by Kinsey Boehl DEP 002-1134 for the NOI. Motion was seconded by Alan Corey. AIF.

RDA - 5 Nicholas Drive, Eagles Point Condominium Trust - (Duncliffe)

John Lopez: This is an RDA in support of a request for the removal of a number of trees. The applicant has submitted some photographs of some property damage on his property. The applicant has also stated that he would be amenable to installing some plantings at the commission's discretion, winterberry is something we've discussed.

William Duncliffe, resident of Eagles Point condominium complex, and president of the Eagles point condominium association board of trustees. The reason why we're here tonight talking about this is on July 2, 2015, which was a completely windless sunny day, we had a sugar maple that was on the 29 Monroe Street property, which abuts ours.

APPROVED

It came down and did severe damage to the deck of unit 9 in our complex. I included photos of it in your packets. As a board, we thought not only the damage to the property but also what if there were individuals out there? Anyone in the path of that tree when it came down would've been in severe distress, to say the least. So as a board, we came together as a result of that incident, and we had an independent arborist come out and look at all the trees surrounding our property, and give us his recommendations as to what they thought needed to be done. Between our property and Ash Street, there is a strip of conservation land that I don't know exactly what the boundaries are. John and I talked about this. Certainly, there are trees that sit in the conservation property there that have been identified by the arborist as being dangerous, could fall down in a strong winter storm, etc. I suspect there are a couple trees that actually technically are not in the conservation area, so would possibly be up to our discretion but I didn't have a survey or site plan that I could definitively say these ones are in and these ones are out. The main point is, we had two independent arborists come to us and recommend that there are five trees maybe six trees that have to come down. There is a very large pine that has a number of limbs coming off of it that needs to be trimmed. There is a large black oak that has some dead branches in it and a dead top that both arborists recommended be removed. As Mr. Lopez said, we're understanding the impact to the conservation area and we're willing as an association to accept the recommendation of the ConCom as to any number of winterberry bushes or whatever you recommend be planted in the area to mitigate the removal of the trees. But with winter coming, as someone who has a legal responsibility for the complex and speaking on behalf of our board, we're very concerned about one of these trees coming down and causing damage to property, visitors, residents, etc.

Motion was made by Suzanne Egan to approve a negative determination of applicability to remove trees as proposed, install a sign 2 feet by 3 feet that says: ACC 002-005, and ConCom wants a plan for planting of winterberry in a ratio of 2:1 as mitigation, to be installed by May 31, 2016. Motion was seconded by Alan Corey. AIF.

NOI (002-XXXX) - 6 Birchmeadow Road - (LeBlanc)

John Lopez: This is a NOI for the proposed addition of a single room to an existing house, within the buffer zone to Lake Attitash. The proposed addition would be 14 X 16, drainage plans proposed drainage would include by Lake Attitash Association, rain barrel as well as lakes and waterways committee. The applicant is here to provide details.

Russell LeBlanc, 6 Birchmeadow Road: I think you have all the details in the packet of what we hope to do.

John Lopez: The project as proposed meets the regulations and the performance standards. The runoff will be directed into a rain barrel. The use of which is consistent with recommendations of the various local organizations like the Lake Attitash Association. The question of whether or not erosion control would be necessary on the

APPROVED

lake side is open to discretion, because there is a house that separates the small work site from the lake. So any sediment would have to be transported through the walls and living room in order to reach the lake. It is about 75 feet from the lake. So erosion control might be appropriate along the front of the house and road to prevent it from running into a drainage basin and then into the lake. The actual work site is 90 feet from the lake.

Russell LeBlanc: The house is surrounded by pervious material. On the plus side of the house is lawn, and on the north side of the house, which is the street side away from the lake, is a gravel driveway that extends about 60-70 feet from the house to the road.

Motion was made by Suzanne Egan moving to issue an OoC on the condition of issuance of a MA DEP file number. Motion was seconded by Alan Corey. AIF.

Motion to close the hearing was made by Suzanne Egan. Motion was seconded by Alan Corey. AIF.

Bill Payments:

**Wetlands Consulting Services (Hatters Point- Site and monitoring inspections, \$836.00. Review fee balance after payment of invoice = \$6025.05.
Payment was approved and signed off on.**

**Mill River Consulting, Inc. (23 Clinton Street) – Review of revised plans = \$1920.00
Review of fee balance: No funds available.
Payment was approved and signed off on.**

Motion to adjourn was made by Suzanne Egan. Motion was seconded by Alan Corey. AIF.

Meeting was adjourned at 8:45 PM.