

Arlington Conservation Commission
Minutes
June 19, 2014

Mr. Stevens called the meeting to order at 7:45 p.m. in the second floor conference room of the Town Hall Annex. Present were Nathaniel Stevens, Catherine Garnett, Charles Tirone, Eileen Coleman, Curt Connors, Michelle Durocher, Janine White, Mike Nonni, Susan Chapnick and David White of the Commission. Also present were Michael Rademacher, DPW Director, JoAnn Thrasher, Pat Dwyer, Jennifer Dwyer, Tony Deltufo and Steve Applebaum of Clean Harbors, Michelle Hassler of the Cemetery Commission and Blair Hines, landscape architect/designer.

7:45pm Commission Business:

D. White/S. Chapnick motioned to approve the 5/15/14 **minutes** with edits; motion passed unanimously.

E. Coleman/D. White motioned to approve the 6/5/14 minutes with edits; motion passed unanimously.

Commissioners discussed the request from **Watermill Place** to remove a partially dead, large Poplar tree from the bank along Mill Brook. The commission needs confirmation that the recommendation to remove the tree came from a certified arborist. Mr. Nonni and Mr. Tirone examined the tree and made a judgment that the tree is not in imminent danger of falling; therefore there is time to resolve that question. If the recommendation is approved, the Commission discussed giving the applicant two options: to remove the tree while leaving 10 feet of trunk intact, or to remove the tree and provide replacement plantings.

8pm Request for Determination of Applicability - Mt. Pleasant Cemetery water lines

Director of Public Works, Michael Rademacher, described a project to replace water lines throughout Mt. Pleasant Cemetery. The areas of work are close to resource areas in some parts of the cemetery. Erosion control is outlined in the application, as is rigorous daily repaving so that no excavations are left open at the end of each day. The old lines will be kept in place wherever possible. The majority of work will occur within roadways. One exception to the roadway work is along the bridge over Mill Brook. There will be an above-ground line attached to the bridge, either with a protective sleeve or made of material that will be resilient to winter weather.

There will be a backflow preventer attached to the 8-inch line in the basement of the Cemetery Chapel. The backflow preventer is a somewhat unsightly piece of equipment and needs to be above grade as per code, so putting it in the basement of the Chapel is a good opportunity to keep the equipment out of public view.

The waterline work should be completed this season before the winter. The final repaving work will be handled next season as part of another permit application.

D. White moved to issue a positive determination of jurisdiction but a negative determination that a Notice of Intent is required. C. Connors seconded. The vote to approve was unanimous.

8:15pm **Notice of Intent** – Mystic River Oil spill

Two representatives from Clean Harbors, Tony Deltufo, LSP of record and Steve Applebaum, addressed questions from the Commission which Ms. Chapnick had sent earlier to Clean Harbors on behalf of the Commission. Ms. Chapnick began by summarizing the Commission's issues related to the RAO for the Mystic River oil spill clean-up. The first issue was related to surface water exceedances of MCP standards in some of the test areas in August 2013. The second area of concern was related to applicability of sediment bank background samples and the locations from which they were gathered. Under the MCP, the samples need to demonstrate the area is cleaned up below sediment benchmark levels or to local conditions. Clean Harbors provided satisfactory responses to the questions.

A third issue was related to the levels of several compounds (including petroleum hydrocarbons and polycyclic aromatic hydrocarbons, PAHs) associated with the fuel oil release being greater than applicable benchmarks in bank sediments and Table 7 of the MCP-filed RAO misrepresenting the site-specific sediment benchmarks, which should be based on the site total organic carbon levels. Ms. Chapnick expressed concern with the wording used in Clean Harbor's response letter, where they described that "site conditions are consistent with background conditions and, more importantly, do not present a human or ecological risk" because though she agreed that the sediment data show the clean-up was performed to "local conditions" (or background), these local conditions themselves can present an ecological risk to invertebrates in the bank sediments. Clean Harbors agreed with Ms. Chapnick; however, the conclusion of the RAO does not change and the site is considered to be cleaned-up

Ms. Chapnick requested that Clean Harbors submit the revised Table 7 (which they included in their response to the Arlington Conservation Commission) to DEP on a transmittal form, which they agreed to do. The determination of Clean Harbors and the Commission is that the clean-up has proceeded to completion such that the oil spill is no longer causing conditions that are a significant risk to public health or the environment. Andy Hryeyna of the Mystic River Watershed Association expressed his thanks to the Commission for the care in which they reviewed the clean-up.

D. White moved to close the hearing; J. White seconded. S. Chapnick moved to issue the permit without any additional conditions beyond the Commission's standard conditions; E. Coleman seconded. The vote was unanimous.

9pm **Notice of Intent** – Mt. Pleasant Cemetery columbarium

Ms. Hassler described the cemetery's need for a columbarium (stone wall holding niches

for ashes) which is planned for behind 91 Mystic St. Mr. Hines presented drawings and described the project in detail. Planting beds are a major feature of the plan; inkberry and clethra are being used to help manage the invasives due to the types of root structures that they produce.

Ms. Garnett inquired about the maintenance and weeding in the planting beds. The interest is to minimize the growth of invasives so that the new plantings are given room to grow and are not shaded and crowded out by more aggressive invasive weeds. There is also concern that seeds from the invasive plants could be washed down stream from the areas adjacent to Mill Brook.

Ms. J. White inquired about the design area where a bed of crushed stone would be used for infiltration. Ms. White pointed out an error in the infiltration rate calculations that were used in the permit but her recalculations reveal that the plan would meet the necessary rates nonetheless provided 1 foot of crushed stone was provided below the entire 16 foot diameter circle. Mr. Hines offered to use a filter fabric layer around the crushed stone to further improve the design; Ms. White agreed that would be a positive change.

C. Connors moved to close the hearing, D. White seconded. D. White moved to issue the permit with conditions, J. White seconded. The vote was unanimous. The two conditions are: 1) to monitor the plantings in order to take action if invasives are detected; and 2) that revised plans be submitted prior to work proceeding to show 1 foot of crushed stone with filter fabric below all paving and lawn areas within the 16 foot diameter circle.

Enforcement: 15 Thesda St.

Mr. Pat Dwyer, homeowner, addressed the Commission relative to an enforcement letter that he received from the Commission due to an unpermitted construction plan to build an addition on the back of his house in the buffer zone of the pond. Mr. Dwyer received a building permit for the construction, but the Building Department did not alert the homeowner that he needed to file a permit application with the Commission. He apologized for proceeding without the Commission's permission

Mr. Dwyer described the project, which included excavation for a foundation in replacement of the previous deck footprint. As soon as the Commission's letter was received on Saturday, June 14, the homeowner ceased work on the project and installed erosion controls.

Mr. Stevens requested the homeowner file a Notice of Intent so that the Commission has all the proper plans and conditions on file for the project to proceed. Mr. Tirone suggested an alternative approach, which is to file an Enforcement Order so that the project can proceed and not place an undue burden on the homeowner, who has immediately responded to the Commission's letter. This approach would have the Enforcement Order specify that the after-the-fact NOI be filed after the completion of the project with modified As Built plans, ideally by September 18. The plans will need to include indication of all the set-backs from the resource area.

Mr. Tirone expressed that the Commission needs to pursue correcting the flaw in the Town's process that led to this homeowner's violation. When the Commission Administrator, Ms. Beckwith, returns to the office after her vacation, the Commission will discuss with her suggestions to improve the process.

S. Chapnick motioned to issue an Enforcement Order with conditions allowing the work to continue; C. Connors seconded. The vote was unanimous. Conditions are to maintain erosion controls throughout the project; homeowner is to notify the Commission when applying for the occupancy permit from the Building Department, which will be the trigger for the Commission's site visit to allow removal of the erosion control, and an NOI is filed by September 4 for the September 18 Commission meeting.

Commission Business, continued:

The property owners from 2 Princeton Rd., Lauren and David Kopans, did not appear before the Commission after receiving the enforcement letter about removal of a tree within a resource area without a permit. After the letter went out, the Commission learned that Ms. Beckwith had previously communicated with the property owners and informed them that they would need to file a Request for Determination of Applicability. The Commission reviewed correspondence between the Commission Administrator and the property owners, which raised questions regarding next steps. Questions will be resolved before possibly escalating the issue to an Enforcement Order.

The Commission discussed a number of changes to protocols that the group would like to consider with the Administrator in light of her extended hours that are beginning on July 1. Commissioners discussed a variety of ways to improve some internal processes, including the notification process for enforcement issues. Mr. Stevens will review the Commission's enforcement policy as the basis for suggesting improvements to the process.

Meeting adjourned at 10:05 pm.

Respectfully submitted,
Michelle Durocher
Associate member, Arlington Conservation Commission