

Arlington Conservation Commission  
Minutes  
April 6, 2017

Mr. Stevens called the meeting to order at 7:30 p.m. in the second floor conference room of the Town Hall Annex. Present were Chair Nathaniel Stevens, Commissioners Mike Nonni, Charles Tirone, Curt Connors, Susan Chapnick, David White, Janine White, Associate Member Catherine Garnett and Administrator Eileen Coleman. Also present were Laura Kiesel, Gene Crouch (VHB), Kathleen Lynch (VHB), Cory Rivenburgh (Spectra), Jimmy Stafford (Spectra), Ivana Pejatovic (Spectra), Tammy McGill-Hoyt (Spectra) and Jon Bonsall (Spectra).

7:30pm      **Commission Business:**

Laura Kiesel introduced herself as an environmental scientist with experience in policy. She is part of a group of concerned residents proposing a warrant article to ban single-use plastic bags at the point of purchase. Ms. Kiesel explained that her group worked with the Town Manager's office and Board of Health to craft the wording of the warrant article. The Board of Selectmen unanimously supports the proposal. Large retailers would be allowed 6 months to phase in the requirement and smaller retailers would be allowed over a year. There will be no restrictions on the use of paper bags. Since Arlington is a Town, a charge for plastic bags cannot be levied. Literature suggests that while there is an initial increase in paper bag use, such a ban leads to a 79% decrease in plastic bag use.

In response to a question from Mr. Tirone about what town the template for the warrant came from, Ms. Kiesel explained they had used Somerville's wording initially then tightened that to specify bags must be 4 ml thick with stitched handles. The group hopes to get sponsorship to give bags away.

Ms. Kiesel also mentioned her group's screening of the documentary "Bag It" in the UU church in Arlington Center on April 12, 2017.

Connors/DWhite moved to endorse the Bill; motion passed unanimously.

Meeting minutes from the 3/16/17 meeting were discussed and edited. DWhite/Connors motioned to approve the Meeting Minutes from 03/06/17 with edits; motion passed unanimously.

**Community Preservation Committee**

Mr. Tirone announced that the ACC's proposal submitted to the Committee has been approved unanimously by town committees so far. (Town Meeting will vote whether to approve the proposed projects). Mr. Tirone had circulated a draft of the CPC's report to Town Meeting. Ms. Garnett had made one change about the consultant; she emphasized that the contract would have to go out for bid so it was not certain whether the same consultant would be hired. She emphasized that the request for proposal should go out as soon as town meeting approves the CPA projects for funding so the next consultant can be hired expeditiously. Ms. Garnett also pointed out that she will have limited ability to be able to work on the next phase of the project, hiring the consultant. She will draft parts of the RFP and write notes for someone else to take over. Mr. Tirone suggested using Town Planner Nat Strosberg. Planning Director Jenny Raitt would have to be approached about that.

Ms. Garnett also described a Site Walk at Spy Pond with Melissa Crean, LWCF Grants Administrator. Ms. Crean explained that proposals seeking \$5M have been received for \$1.6M of available funds and she encouraged the Conservation Commission to re-apply in July if we don't win funding this time around. Ms. Garnett pointed out that a member of the consultant team will have to understand the ADA requirements for site design. Mr. Tirone mentioned that he had followed up with Assistant Town manager Jim Feeney asking- if the town would provide 3 ADA-

compliant entrances at Linwood Street. Mr. Feeney responded positively to the request but no detail was given.

8:00pm        **Notice of Intent** - Algonquin J-1 Systems pipeline (under intersection of Mystic River and Alewife Brook) cont'd from 3/16/17 (DEP #93-0285)

Gene Crouch, Senior Environmental Scientist with VHB recapped the project. The proposed HDD will exit into DCR parkland. Mr. Crouch distributed and referenced the following documents:

*Algonquin Transmission Alewife/Mystic River Crossing HPP J-1 System Arlington Planting Plan, DWG:JSYS-G-1002, dated 2017 (printed 04/03/2017)*

*Algonquin Transmission Alewife/Mystic River Crossing HPP J-1 System Arlington Tree Removal Plan, DWG:JSYS-G-1001, dated 2017 (printed 04/03/2017)*

*Algonquin Gas - Mystic River Pipe Replacement Project Tree & Shrub Removal Tables VHB (Algonquin) NOI Response to Comments Tree Removal Discussion*

*MSDS Sheet for polyacrylamide.*

*MSDS sheet for APS 700 Series Silt Stop.*

The colors in the Planting Plan represent different tree species. The Pine at the path edge will be replaced with a deciduous tree that will provide better sight lines; another pine and 3 other trees will also be planted to replace this 9" diameter specimen. *Betula nigra* is also being added. Shrubs are being replaced more or less in kind.

60 trees were tagged with a total caliper diameter of 246 inches. Of those, 9 are dead. Invasive species, including catalpa, Norway maple, buckthorn shrubs, possibly euonymus or privet, account for 13 trees. Most are volunteers.

VHB and Spectra presented a proposal to replace 17 of the 60 tagged trees with a total of 74 caliper inches, leaving a deficit of 176 inches.

In the southeastern corner of the site the invasives were not counted in the caliper replacements. The multi-stemmed cottonwood, which DCR feels is not desirable in its present condition, accounts for 91 caliper inches of the non-replaced diameter. DCR wants this specimen removed. It will be replaced with an oak.

As described in the *Tree Removal Discussion*, DCR prefers to remove and replace trees to allow for trenching and equipment set-up.

Ms. Chapnick asked why the invasives are not proposed to be replaced.

Ms. Garnett explained that some of what were counted are Norway maple saplings that have grown from the seed droppings and are so close together that not all will become mature trees. She confirmed that when she and Ms. Coleman visited the site there were trees she identified that may not need to be replaced but that the final decision is at the discretion of the Commission. In her opinion their allelopathic qualities also deter native trees from growing.

Mr. Tirone said it would be difficult to fit enough trees on site if all the invasive trees are included on the replacement list. The center of the site is being left open, Mr. Tirone asked what the reasoning is behind this and if more trees can be planted there.

Mr. Crouch responded that it was originally landscaped according to a Carol Johnson plan for the Greenway Project and this area represents an entry point to the Greenway.

Ms. Garnett agreed that an open plan seems good and is suitable as the entrance to the Greenway, however, she might increase the plantings by 25% especially around the cottonwood, possibly including Red Maples. She also suggested increasing the plantings to account for die-off.

Mr. Crouch responded that he would have to bring the suggestion to include more trees back to DCR.

Mr. Tirone asked if the new plantings shown on the plan will have a guarantee if they die off over winter.

Mr. Crouch confirmed that there will be a **3-year monitoring commitment**. A census will be conducted in late summer/early fall and dead trees will be replaced.

Mr. Tirone said included in the winter die-off monitoring report the applicant should include the reason for any die-off and recommend changes, if needed, to the species of vegetation planted to ensure survivability .

Ms. Garnett pointed out that the Cottonwood multi- stemmed clump totals 91-inches in caliper. The Commission has discretion on multi-stemmed trees. Algonquin could get closer to the requirements of the Commission's bylaw regulations if a few more trees were added. It is outside the 15' protection zone around the trench.

Ms. Chapnick asked for clarification on the banked caliper column in the *Tree & Shrub Removal Table*.

Mr. Crouch confirmed it is not proposed to plant trees elsewhere in Arlington.

There followed a discussion about how many trees counted according to the bylaw's regulations and what should be replaced: Ms. Chapnick said that there are 45 trees being removed counting everything greater than 1-inch caliper and 18 proposed for replanting and agreed that the ACC has discretion but that she feels it should be closer to the Bylaw requirements. Mr. Connors requested that the Tree & Shrub removal table be revised to remove the note about invasives not needing to be replaced, and both he and Mr. Stevens suggested that the language of the proposal be amended to highlight the need for space for the trees and that some trees listed separately that are multi-stem trees could be combined into a single entry. Mr. Crouch reminded Commission members that trees with more space are more attractive aesthetically and in terms of habitat and that he would have to discuss adding more trees with DCR. He asked that the hearing be closed and that **3 more trees be added as a permit condition**.

The discussion moved on to whether trees could be planted elsewhere or if more shrubs could be added. Jon Bonsall (attorney for Spectra) pointed out that since this is DCR land which they have been "cleared" to use and due to Federal utility law, they are restricted to that workspace but suggested more shrubs could be provided. Mr. Connors reminded the proponents that it may be acceptable to offset small trees with shrubbery but not larger ones. Jon Bonsall confirmed that bank caliper inches can be used to provide trees. Tirone/Chapnick confirmed that the site will be monitored for 3 years so trees could be provided any time during that period and suggested the money not used to replace trees could go elsewhere (e.g. the Mystic Riverfront Restoration project which will require 8 trees and some shrubs).

Mr. Stevens suggested Algonquin consider applying for a variance. In the ensuing discussion Mr. Tirone pointed out the regulations on vegetation removal and replacement show existing saplings as small as 1 inch are counted for replacement. Mr. Connors pointed out that the Commission will have to adhere to the table in the regulations in the absence of a waiver request. He also suggested that if Algonquin can explain equivalent biomass alternatives, then it could still qualify as an in-kind replacement. This opens the discussion of the habitat value of the site. Mr. Connors prefers not to grant a variance; he feels there is room in the regulations, and that granting extraordinary relief like a variance could set a precedent for future applications. Ms. Chapnick and Mr. Stevens agreed regarding the concern about setting precedent. Mr. Connors reminded those present that a bylaw passed at Town Meeting last year which applies to trees in the setback area of certain projects.

Mr. Crouch suggested they investigate with DCR if they can add more trees, possibly below the Red Oak and below the protected thicket near the stone monument.

Ms. Garnett suggested Red Oak or Maple.

Mr. Crouch requested the commission draft an order of Conditions to sign at the next meeting.

Mr. Bonsall asked if it would be feasible to provide 10 trees some of which go on site while the rest go to Arlington.

Mr. Connors responded that it would be problematic to allow developers to simply buy their way out of compliance with tree and vegetation regulations intended to apply on-site.

Ms. White suggested increasing the shrubs offered to offset the difference and Ms. Garnett suggested increasing the caliper of the trees proposed.

Mr. Connors and Ms. White provided some suggested wording to justify the proposals.  
Mr. Stevens pointed out 2 trees that could be removed from the list under 1-caliper inch.  
Ms. Chapnick reminded the proponents that all of the 10" trees need to be replaced.  
Mr. Stevens requested that in the future additional material be submitted one week in advance of a meeting and said that the Commission would endeavor to draft permit wording in the next week or two so that it is ready for discussion at the April 27, 2017 meeting.  
Mr. Crouch provided the MSDS Sheets for polyacrylamide and for APS 700 Series Silt Stop, as requested. The silt stop acts like a floc log; its only hazard is that it causes slippery surfaces.  
Connors/JWhite moved to continue the hearing to April 27 at 8:30pm. Motion passed unanimously.

9:45pm **Executive Session** – Active Litigation: Seaver Construction Co. v. Arlington Conservation Commission, Middlesex Sup. Ct. Civ. A. No. 1681CV03021

Mr. Stevens announced that the Commission needed to go into executive session to discuss with Town Counsel Doug Heim strategy about active litigation as meeting in open session could compromise the Commission's position. JWhite/Connors motioned that this meeting go into executive session there followed a roll call vote:

Nathaniel Stevens – yea; Janine White – yea; Mike Nonni – yea; Charles Tirone – yea; Susan Chapnick – yea; David White - yea and Curt Connors – yea. Motion passed unanimously.

The Commission went into executive session to discuss with Town Counsel Doug Heim strategy about active litigation. Town Counsel participated by telephone. Associate Member Garnett attended.

10:30 p.m. Commission ended executive session and returned to open meeting.

#### **Notice of Intent** - DCR Mystic Riverfront Outfall Restoration Project

At the applicant's request, JWhite/Tirone moved to continue the hearing to April 27 at 8pm. Motion passed unanimously.

At Ms. Chapnick's request, Ms. Coleman will send to Sergio Benillo of AECOM the Notice of Intent and Order of Conditions for the Mystic Riverfront Restoration project. One of the outfalls identified for maintenance work in DCR's NOI for Mystic River Outfall Maintenance (Outfall # 22533) is the same outfall permitted for restoration work in the Town's Mystic Riverfront Restoration project.

#### **Notice of Intent** - 88 Coolidge Road cont'd from 2/2/17 (DEP #93-0278)

At the applicant's request, JWhite/Nonni moved to continue the hearing to April 27 at 7:45pm. Motion passed unanimously. Mr. Stevens informed the members present that a site visit for the peer reviewer, Nobis Engineering Inc., will take place on Tuesday April 11 at 4:30pm. Mr Stevens and Ms. Coleman intend to be there.

Ms. Coleman mentioned she has been in discussion with the contractor who wishes to renovate 46 Spy Pond Parkway. It is likely that Mr. Iocomedes will come in for a Working Session on April 27, 2017.

Meeting adjourned at 10:35pm.  
Respectfully submitted,  
Eileen Coleman