

**CONSERVATION COMMISSION MEETING
MONDAY, NOV. 3, 2014 @ 6:30 P.M.
CITY HALL AUDITORIUM – 62 FRIEND STREET**

EXECUTIVE SESSION AT 6:00 P.M.

REGULAR MEETING CALLED TO ORDER AT 6:30 P.M.

PRESENT: Michael Bik, Kinsey Boehl, Alan Corey, Suzanne Egan, Steve Langlois.

Absent: None.

Also Present: John Lopez, Agent; Paul Bibaud, Recording Secretary.

MINUTES:

10-6-14 Motion to approve the minutes as presented was made by Michael Bik and seconded by Kinsey Boehl. Vote was unanimous.

ADMINISTRATIVE:

DEP Notice of Intervention: 56-58 South Hampton Road, DEP # 002-1095 (MaDep).

John Lopez: This is to brief the commission on recent events. The ConCom received, as part of its meeting packet, a copy of a Notice of Intervention that DEP issued pursuant to the aforementioned DEP file number. A site visit was conducted in the presence of the DEP representative, I was there, Jillian Davies from BSC was there, as was the applicant and his representatives. This was an informal fact finding mission. The DEP representative gathered information, asked questions, answers were provided. She may or may not require or ask additional data be supplied. She may or may not decide to uphold the commission's decision. DEP may issue a superceding order. She gave no time frame as to when these proceedings will occur, and I have not heard from her. I don't believe the applicant has either. This is presented just for the ConCom's edification.

Suzanne Egan: MOTION: I would like to recommend that the ConCom agent work in conjunction with DEP on this Notice of Intervention, so that it can provide the ConCom with guidance as to how applications should be reviewed.

Motion was seconded by Alan Corey. Vote was all in favor.

**ENFORCEMENT ORDER 56-58 SOUTH HAMPTON ROAD,
DEP # 002-1095 (COUILLARD)**

John Lopez: This was an initial enforcement order issued on Oct. 20, 2014, required with a CEASE and DESIST provision. The ConCom is in receipt of that. The ConCom is also in receipt of an enforcement order #002-1029, marked EO #2. This is an amended enforcement order. This stipulates the same thing that the original enforcement order stated, only that once DEP has rendered its decision, if it is appropriate, this enforcement order would allow for the CEASE AND DESIST to be lifted, as opposed to requiring the applicant wait for the next meeting. So I'm asking for two things: 1. for the ConCom to ratify the first enforcement order, and 2. to ratify the second enforcement order, as amended.

Suzanne Egan: So the enforcement order is that the CEASE AND DESIST be lifted automatically without a review from the commission, because DEP will be reviewing the project? Is that correct?

John Lopez: That is correct. This was discussed at the site visit and DEP was supportive of that. They felt it was reasonable to do so. But everything is dependant upon DEP's decision. So we would wait for something in writing.

Motion was made by Suzanne Egan to ratify that enforcement order. Motion was seconded by Michael Bik. Vote was all in favor.

ENFORCEMENT ORDER – 94 LAKE ATTITASH ROAD (RYAN)

Commissioner Bik recuses himself on this item on the agenda.

John Lopez: This occurred a week ago Saturday. I received a phone call from the building inspector, who received a phone call from the police department, concerning the paving of an easement within the buffer zone to Lake Attitash. I received a subsequent phone call. The building inspector told me that he had notified the property owner and the representatives who were doing the work that the project was subject to the wetlands protection act, and Amesbury Wetlands Ordinance review, and I had intended to follow up on Monday morning. I received a subsequent phone call from a concerned abutter (Beth Sloan) who told me that the project may be encroaching upon her property and that the asphalt that was being removed and subsequently re-asphalted was not, in fact, pre-existing. So there was a lot of uncertainty. I couldn't figure any of it out, so I went to the scene, at which time I observed (commission has been supplied with photos) what appeared to be an asphalt driveway within the buffer zone that was completely removed at that point, with a lot of exposed soils. The work crew was in the process of applying a new coat of asphalt. I made the decision that the work should proceed, because of all the exposed soils. Certainly, if it was still exposed this past weekend, there would've been considerable amount of sediment transport. I issued an enforcement order, which you have in front of you, which merely requires the property owner to submit a Notice of Intent. I'd like the commission to do is ratify that / approve that, but also an amended enforcement order stipulating that the Notice of Intent must be received by the meeting deadline for Dec. 1, and that the property owner must appear before the commission Dec. 1 for further proceedings.

Steve Langlois: What's going on with the site right now? What are they using for site protection?

John Lopez: There is erosion control at the base of the driveway, between the edge of the asphalt, the limit of work, and the lake. They have re-asphalted the whole road.

Steve Langlois: So his driveway is now basically a chute for the street water to flow right into the lake?

John Lopez: Correct. That is one of the things that I believe is worthy of reviewing and commenting upon, once the Notice of Intent is submitted.

Steve Langlois: So he had the asphalt down before you had the enforcement order?

John Lopez: No, it was all exposed soils.

Steve Langlois: So then you just said to go ahead and cover it?

John Lopez: Right. I felt that there would be more damage to the resource if the soils were left exposed until tonight.

Suzanne Egan: So a CEASE AND DESIST was a part of that?

John Lopez: There is now, but at the time, no. CEASE AND DESIST now / no further activity, and the applicant has to submit a Notice of Intent, and I'd like him to have that ready for the commission by Dec. 1.

Steve Langlois: I think we should put in some kind of a fine if he doesn't do it.

John Lopez: My concern is that I haven't heard from the applicant. I thought I'd at least get a phone call asking what was needed to correct this. But I've gotten nothing.

Steve Langlois: Is it possible that we could motivate this gentleman to do what we want him to do? He seems like the type of person that might not?

John Lopez: I think the enforcement order with the dates is a start. If not, then I can draft a letter and have you sign it saying that to avoid further ConCom interaction, please have this by Dec. 1 for the proceedings. The enforcement order has been handed to him or his representative, actually. But no, the Dec. 1 stipulation would be in the amended enforcement order, which is what I'm asking for tonight. The deadline for the Dec. 1 meeting is Nov. 10. I think the ConCom can stipulate Nov. 10. It is not a complicated issue. He could submit a plan or the ConCom could relax the deadline to two weeks before the Dec. 1st meeting.

Suzanne Egan: Or we could amend the enforcement order to include penalties of up to \$100 a day for any day that it goes past the Dec. 1 meeting. That would be motivation. Then we could have a public hearing on the issuance of the fines. Call him to a public hearing...

Steve Langlois: If he doesn't submit the NOI by Nov. 10, he is automatically going to be? I think we should relax that date and put a penalty after it, and at least he has to give us a phone call stating he is working on it. We can't deal with his silence. How about Nov. 17 for a relaxed deadline date. If he hasn't given us the NOI or assured us that it is in progress, then it is \$100 a day fine after that.

John Lopez: So I'll stipulate that in the enforcement order and also inform him that his public hearing is scheduled for Dec. 1, and he is required to attend. That is certified mail.

Suzanne Egan: Put it in the paper for a public hearing.

Motion by Suzanne Egan to issue an enforcement order requiring the applicant to submit the Notice of Intent by Nov. 17. Failure to do so will be that the ConCom will consider fining at \$100 a day for each day that he is late, and that we are requesting the agent to publish this for a public hearing scheduled for the next ConCom meeting on Dec. 1. Motion was seconded by Alan Corey. Vote was 4 out of 5, with Mr. Bik recused.

REVIEW FOR APPROVAL – 2015 CONCOM MEETING SCHEDULE.

Just like this year, the meetings will be the first Monday of every month at 6:30 P.M.

Motion was made by Michael Bik to approve the new calendar as presented. Motion was seconded by Suzanne Egan. Vote was unanimous.

CONTINUED BUSINESS:

The following agenda items are all one hearing:

NOI #002-1107 – 56-58 South Hampton / Locke Hill Lot 4 (Couillard)

NOI #002-1106- 56-58 South Hampton / Locke Hill Lot 5 (Couillard)

NOI #002-1105- 56-58 South Hampton / Locke Hill Lot 6 (Couillard)

NOI #002-1104- 56-58 South Hampton / Locke Hill Lot 12 (Couillard)

NOI #002-1103- 56-58 South Hampton / Locke Hill Lot 13 (Couillard)

John Lopez: The hearing was opened at the previous meeting. The ConCom voted to retain BSC as their reviewer. The review was conducted and submitted. There were some minor revisions recommended, and some minor revisions implemented pursuant to those recommendations. So the ConCom is faced with whether to defer the amended plans back to BSC for a final review and approval, or whether to review it on your own and perhaps entertain the issuance of an Order Of Conditions?

Suzanne Egan: I'd be more comfortable having BSC's findings.

Matthew Botsky, counsel for the applicant: I asked John to have the hearing proceed tonight, in light of the BSC peer review report that you have gotten, which really had comments only on two of the five Notices of Intent. Comments were on lot 5 which is NOI # 002-1106, and on lot 6, which is #002-1105. The only comments that BSC had were for those two lots. The plans as submitted had a small amount of the building envelope for each of those lots in the 50 foot buffer zone. All of the other lots had the building envelope outside the 50 foot buffer zone and there were no negative comments at all. So at a minimum, what I would like the commission to do is to consider closing the hearing and voting to issue the Order of Conditions for lots 4, 12, and 13, because you have a peer review report that tells you there were really no questions about any of those three lots. The second thing that I'd like to ask you to consider doing is to actually take a look at the plan as submitted, as John has indicated, in response to the BSC comment on lots 5 and 6. The BSC comment was that the building envelopes that were shown slightly overlap the 50 foot buffer zone. The revised plans are very easy to take a look at. The building envelopes are now located outside the 50 foot buffer zone. So I think you have a very simple clear cut comment, and you have a very simple clear cut response to it that addresses the concern. I think the commission really doesn't need further BSC input to tell you that the building envelope is located outside the 50 foot buffer for lots 5 and 6. Just look at the plan and it is right there. These plans were provided the day after the peer review comment.

Alan Corey: I have a revised plan for Lot 6 from Oct. 31, but I do not have one for Lot 5.

John Lopez: I believe the plans were distributed to the commission. You should have both Lot 5 and Lot 6 plans, dated Oct. 31.

Suzanne Egan: What is the deadline for submissions? This one was submitted Oct. 31. Today is Nov. 3.

John Lopez: The deadline was two weeks ago.

Suzanne Egan: So this was submitted three days ago and we get it tonight for the first time. Due to that fact, I would still feel more confident if BSC's expertise in reviewing these plans before I'd be able to make a decision on this.

John Lopez: One thing the ConCom could do is that attorney mentioned was closing the hearing. The ConCom could certainly do that, defer this to BSC for final review, then direct me to draft a draft order of conditions to be presented to the ConCom at the Dec. 1 meeting for review.

Suzanne Egan: I still feel better with BSC review the plans, so that we can discuss this and to have it on the record, so we understand, and if we have any questions for BSC

regarding their review, then we would be able to do that, and review an Order of Conditions on the basis of that.

John Lopez: I've been informed that the deadline was Oct. 14.

Suzanne Egan: This plan was revised on Oct. 31, but I don't know when it was submitted to ConCom.

Matthew Botsky: I understand the ConCom's general rule requiring submittal of information. Your own consultant submitted a report only on Oct. 30, and we responded to it the very next day. So where the comment from your consultant was so limited, so simple to address, that if you are able to digest her simple comment on the review letter submitted on Oct. 30, I think you could also take a look at the revised plans on lots 5 and 6 and see that the building envelopes are outside the 50 foot buffer zone. That was the gist of her comment. She said "With regard to the Amesbury Ordinance, all impacts are outside of the 25 foot buffer zone, and no structures are within the 50 foot buffer zone on Lots 4, 12, and 13, but Lots 5 and 6 have a very small portions of the house footprint are within the 50 foot buffer zone. The house footprints on these two lots should be shifted so that their complete footprints are outside the 50 foot buffer zone in order to come into compliance with Ordinance Section 21.7 Subsection 2. So we had the engineer quickly revise each of those two plans directly in response to her comment, and you can look at the rectangle. It is outside the 50 foot buffer. That was the whole sum and substance of her review.

Motion was made by Suzanne Egan to continue this to the next ConCom meeting on Dec. 1st for review of the BSC comments. Motion was seconded by Kinsey Boehl. Vote was unanimous.

NOI #002-1096 127 Kimball Road (Scimone)... CONTINUED TO DECEMBER 1.

NEW BUSINESS:

NOI #002-xxxx 146, 149 AND 150 PLEASANT VALLEY ROAD (Chorebanian / Clark)

John Lopez: This initially was submitted through a request for a determination of applicability. DEP appealed for reasons cited in your correspondence to the applicant and the ConCom. A site visit was held with DEP staff, and as a subsequent follow up, DEP issued a superceding Determination of Applicability, essentially requiring the applicant (property owners) to submit a Notice of Intent for various reasons. Technical reasons being that this is a bank in question and is a protected resource. Also we're dealing with endangered species habitat and things of that nature. This is a fairly complicated site. It is a riparian bank located at a high energy bend in the river. The bank is subject to wave action, action from wakes from passing vessels, and just from the sheer current for which it is located. Lots of water moves through there. A significant amount of ice scouring also occurs in the wintertime. As such, the bank has experienced accelerated erosion, more so than surrounding areas. These factors were taken into account at our site visit with DEP staff. We're dealing with two solutions to the problem. 1. is being addressed through the NOI. The applicant has re-submitted the plan with the RDA, but pursuant to suggestions from DEP. The only difference being that the applicant is now proposing that all trees less than four inches in diameter at breast height remain, and everything else would be

subject for removal. These are trees with large root systems that are suspended from the bank. That is the short term solution. 2. a longer term solution not the subject of this NOI hearing, but supercedes any individual property owner's financial and technical ability. It involves a more long term shoreline stabilization, which the city is endeavoring to pursue with the assistance of the DEP. Tonight's NOI hearing is limited to the proposed removal of the trees on two properties: one adjacent property has it's owner's approval, signature on the NOI, to remove those trees greater than 4 inches. .

Don Clark, property owner of 149 – 150 Pleasant Valley Road. I am an applicant on the NOI. I am mostly representing a neighbor who owns 146 and 147 Pleasant Valley Road. We have submitted to remove a number of trees, seven on this property and I believe 14 trees on my property with a diameter greater than 4 inches. They are listed in the NOI. There is also a photographic exhibit to show the erosion problem that John eluded to. I have exhibits I can give John: the check that I wrote to Ma.DEP, cleared on Oct. 29. I have the return receipt of registered mail to the National Heritage Endangered Species , Robert Hill in Westboro. I have the newspaper ad for the Newburyport Daily News for tonight's meeting. I have one letter back from an abutter, that is in affirmation. "As the owner of 151 pleasant Valley Road, (my immediate neighbor), I am stating in writing that you have my approval to remove the trees as proposed to protect the river." I have a UPS certification of a packet of information being mailed to DEP.

John Lopez: I forwarded an e-mail to the commission late this afternoon. DEP is in receipt of all the necessary paperwork, and they issued a file number.

Don Clark: There's actually two parts to the project. One part is on the river side of Pleasant Valley Road. Mr. Chorebanian, all of his trees are on that side of Pleasant Valley road. My fourteen are also on that side of the road, but there is one additional one immediately across Pleasant Valley Road that is also enumerated in the order, and it is a locust and is not involved in this threatening of the roots, etc. It is just that it is dying or threatened, and highly recommended that it be removed, because it is quite close to our house and it is very large. If it did come down on the house, it would hit our house. So that also is being requested to remove, but for a different reason, which is why it was separated out.

John Lopez: Basically, Mr. Chairman, it is as if the RDA never existed. So he is starting all over again. Suffice to say that the proposed work under the Notice of Intent has been amended pursuant to DEPs suggestions to remove the trees that are appropriate and to keep the trees which DEP would like to see.

Suzanne Egan: Do we have a copy of that from DEP? Because if I look at the regulations, and look at 210 CMR 10.54, it discussed banks and the importance of keeping the vegetation on the banks, unless there is some showing that the vegetation or activity that is going to occur, if it doesn't have a negative impact. So I don't see that in this application. It is actually making the opposite argument as to what the regulations call for. So I am a little confused.

Steve Langlois: I think what I've heard is that the trees are to the point where, if they go, those root systems are going to pull the bank down with them. So the root systems would be better off left without the tree attached, and will hold the bank back better.

Suzanne Egan: Do we have anything before us that actually shows that?

Don Clark: Those photos show it, and also the site inspection.

Suzanne Egan: So on the basis of your site inspection, do you agree that sort of the presumptions have been overcome that are in the state regulations?

John Lopez: I think in the short term, yes. I think the evidence of that is recently fallen trees.

Don Clark: Almost every storm, the trees somewhere along this line... it's not just these two properties. It extends perhaps a third to a half of a mile, total length. There is a bank from about Buttonwood to about Skunk, approximately. There usually is always a tree that falls down in almost every storm.

Kinsey Boehl: I believe in the original NOI, the first one, there were photographs of some of the root systems...

Don Clark: I used the same photographs. I don't know if they didn't come through.

Suzanne Egan: I have the photographs but I don't see... my question is, looking at the regulations, and if the regulations say the vegetation actually protects the bank, and your application states that it does not, and that the trees have a negative impact on the bank, seems like a contradiction there, and I'm looking for some clarification on a record that shows that there is some scientific basis for this.

Don Clark: The risk is, if the roots were intact...

Steve Langlois: Did you have a tree expert come out there?

Don Clark: Yes, Mister Linus Murphy.

Steve Langlois: Do you have anything of record from Mr. Murphy?

Don Clark: No, he never indicated any, other than vocally.

Steve Langlois: So how do we know which trees are going down?

Don Clark: I've listed them.

John Lopez: There are all listed, yes.

Don Clark: And they're by numbers and by location on a site map. And they are greater than four inches. They are the same trees as were in the RDA. The only ones that I struck from this list were the small ones, four inches and smaller, at the request of MaDEP. The issue, I think, is the fact that the root structure is A. very close to Pleasant Valley Road,

Steve Langlois: Excuse me, sir. I know that. Mrs. Egan is coming from a law standpoint and from a record standpoint. Down the road, someone says "why did you take those trees down?" Well, Mr. Clark marked 14 trees". Somebody could make a big deal of that. Whereas if we had something from a certified tree person, that says these 14 trees are the ones that have to come down. Does that make sense, John?

John Lopez: I think to answer that question, and to answer Commissioner Egan's question, I think that this is a unique case in that yes, it is true that there is a presumption that vegetation stabilizes a bank. That is correct. This is unique in that there is very little vegetation other than these trees that are there. They pose a significant threat to the bank to further disrupt or to cause significant erosion should they fall. So in that regard, I think that it can be successfully argued that the trees, as currently constituted, represent a threat to the stability of the bank.

Suzanne Egan: So we have something in the record that there is a threat that these trees will fall?

Don Clark: It is stated that way in the NOI. The concern that I have also, from a legal point of view, since you brought up the law, is that legally, I, the property owner, is legally liable for any damages incurred because of my trees. Not you... not the city. Those trees fall on an automobile, or a child walking by to school, I am liable, you are

not. And if you withhold this privilege from me, I will remember each one of your names.

Steve Langlois: Sir, you don't have to make any threats. We're just discussing.

Don Clark: I...

Steve Langlois: Easy. You've been very good. I know you're a little upset. Commissioner Egan asked a legitimate question. She has a right to do that as a commissioner. Therefore, I'm trying to answer her questions instead of beating around the bush. You were going into the roots. She doesn't care about the roots.

Suzanne Egan: Well, I do care if what you'll remember my name for. So I would just like that on the record, because I think if an applicant is saying that he is going to remember our names if we do not vote in his favor, it is important to have that on the record.

Steve Langlois: I think the issue here is this, most of the times, we have trees taken down, a certified arborist says "bang, bang, bang, these are the trees." I can't see why it wouldn't take you two days to get that from Mr. Linus Murphy. I want him to say that the trees that are marked on those properties, I agree should come down.

Don Clark: In the form of an e-mail, for example?

John Lopez: I think an e-mail would be fine, as long as it has some sort of company reference to it.

Steve Langlois: We're had this before. "Someone wants to cut a tree down. Why? I think it is diseased. OK, maybe it is." This is a funky area. Wouldn't you want to have it on a letterhead or something? When were you thinking of having these trees removed, sir?

Don Clark: last July. Probably in the spring now, because of weather conditions.

Steve Langlois: So we're not going to deny this project. We never intended to. So if it is going to happen in the spring, there is no reason for us to get anxious about it. Why don't we get a letter on letterhead from Mr. Murphy saying that "yes, I have been out to the property and I agree that the trees that Mr. Clark has tagged are the trees that I recommended to be taken down.

Kinsey Boehl: We could also approve it with a condition that we receive that letter on letterhead from Mr. Murphy.

Steve Langlois: Right. There is no doubt that we are going to get the letter. John?

John Lopez: I think that is reasonable.

Steve Langlois: And if we wait until the spring, Kinsey, why do we have to condition it? We're approving it as long as we get this one other piece. The work won't be until spring.

John Lopez: So the letter would stipulate that if the arborist has determined that the trees as currently marked constitute a threat to the bank, then that is appropriate. One little thing for the commission to consider: springtime is when the weather is nice. But what do we do when we've had two nor'easters in the past few months.

Steve Langlois: If you said you wanted the trees down in three weeks, we'd make that open, as long as you supply that letter to us from Murphy. We're here to work with you. I recommend you get that letter in soon, and if all of a sudden in January you decide to take these trees down, you are golden. You are approved.

Kinsey Boehl: So then we would approve the application with the condition that we receive the letter from a professional arborist stating that this selection of trees.

Suzanne Egan: Do we not need to see that letter before we make that motion? Because you're making an assumption. So I would be more comfortable seeing the letter...

Kinsey Boehl: It's conditioned.

Steve Langlois: I don't think conditioning is going to make too much difference in this particular project.

Suzanne Egan: So if we approve without the letter showing /verifying that each of the trees constitute a threat, then if some do and some don't, then are you saying that the Order of Conditions would state that the ones that are noted as causing a threat may be cut down and the others...

Steve Langlois: The trees are not going to change that are being cut down. We're just getting a certification that those were the trees that were going. Why would you disagree with Kinsey's conditioning statement?

Suzanne Egan: No, all I'm doing is clarifying, whether or not the Order of Conditions would state...

Kinsey Boehl: "conditioned upon what a professional arborist feels and which population of trees, if they fell, would damage the river bank."

Steve Langlois: I don't think we can go with it that way. The whole thing is this: the 14 trees have been marked. The 14 trees have been picked out by the arborist. We just don't have a certification from the arborist, documenting that he did pick those 14 trees. That's all it is.

John Lopez: To clarify: There are two routes the commission can go. 1. to continue the hearing to Dec. 1 pending receipt of the letter from the certified arborist, at which time the commission can vote on that and on the Order of Conditions; or 2. condition the letter from the certified arborist. The language in the order of Conditions would correctly say "a letter from a certified arborist shall be submitted to the commission for review and approval prior to the removal of any trees." That would be included in an Order of Conditions that the commission has already issued.

Suzanne Egan: Are you suggesting then that the applicant would have to come back to the commission?

John Lopez: Yes. Because that would be subject to review and approval. So on one hand, you're accomplishing something, but on the other, there is really no net gain.

Suzanne Egan: So I would suggest to make it more efficient is to have this continued to Dec. 1, and then consider the Order of Conditions on the basis of the letter submitted.

John Lopez: Then that letter can be approved by the ConCom and it would be included in the Order of Conditions as a legally binding document.

Don Clark: Could that go forward in my absence. I will not be in town that week?

John Lopez: Yes it can. It can be done without you present.

Motion was made by Alan Corey to table this NOI for 146, 149 and 150 Pleasant Valley Road to the next meeting on Dec. 1 pending the applicant sending us a letter from an arborist stating that the trees to be removed need to be removed and will not destabilize the bank. Motion was seconded by Suzanne Egan. Vote was unanimous.

RCoC #002-1076 277 Elm Street (Beanpod Partners, LLC)

John Lopez: The commission is in receipt of a an e-mail which we received from the PLB and the commission's environmental monitor on the site, saying that a number of outstanding issues remain, so it can be successfully argued in my opinion that the site is in non-compliance with the Order of Conditions. The applicant's representative feels it is

appropriate to continue this hearing or discussion to the spring, after these issues can be addressed. So the ConCom has two choices: 1. continue it to the spring, I would say sometime within the growing season. There is some vegetation that has not been installed yet that is crucial to the storm water management system, with some exposed soils and resulting erosion. 2. The ConCom can deny the request for Certificate of Compliance, requiring the applicant start over again.

Steve Langlois: If we're waiting for things to take root, I think the July 6 meeting would be best.

Kinsey Boehl: The letter from the consultant showed some rip rap above grade, etc.

John Lopez: If anyone is interested, I have plenty of photographs of the site.

Motion was made by Suzanne Egan to continue this until July 6. Motion was seconded by Alan Corey.

John Lopez: If you could also include in your motion that "for further proceedings consistent with the Horsley-Witten e-mail dated today, Nov. 3, 2014.

Steve Langlois: So moved.

Vote was unanimous.

RCoC #002-0884 55 Pleasant Valley Road (Miolla)

John Lopez: This is in support of an Order of Conditions issued a long time ago for landscaping. The property owner is here, so she can step up to the podium. This is in support of an Order of Conditions which approved landscaping at the site. 55 Pleasant Valley Road would be within the riverfront 200 foot buffer zone. All work has been done in substantial compliance with the approved plan. There was some work that was not done. That work that was not done is minimal and doesn't impact the site in any negative way at all.

Motion was made by Suzanne Egan to approve the Certificate of Compliance.

Motion was seconded by Michael Bik. Vote was unanimous.

RDA 220 Main Street / Amesbury Middle School (Robinson / Superintendent of schools)

John Lopez: This is a proposed nature trail off of the school property. The applicants propose this trail be limited to students, although I have received at least one abutter inquiry as to whether this would be open to the public or not. If so, what is the operation and maintenance plan? Will there be trash collection? Things of that nature.

Kristen Doer, I am one of the science teachers at the middle school, along with Ernie Bizen, also a science teacher at the middle school: We applied for this grant to link a number of existing trails and do some improvement work, so students could have access in that area of the property. We just wanted to make sure we are in compliance with everything before we began doing any work on the existing paths that are down there. We met with Mr. Lopez and that's why we are here tonight.

Steve Langlois: So the path is designated by 3 black lines that goes by the teaching station? Access path: 5 foot typical. I see this is all on city property.

Ernie Bizen: We also have a bigger topographical map of the area put together by a volunteer civil engineer, so you can look at that.

Suzanne Egan: So from your application, it looked like you were just planning to pick up the trash, and then are you planning to fill the trails with wood chips and cut down trees?

Ernie Bizen: As far as trail improvements, there'll be probably some overhanging branches taken out above the existing pathways and maybe a few saplings taken down. We'd rake the paths and if there was any places with erosion, we'd probably put some wood chips and also maybe some things to curtail erosion.

Michael Bik: So there is a natural path there now, and basically you're cleaning it up?

Ernie Bizen: Yes.

Suzanne Egan: In our briefing memo, it says that DEP has asked for additional information after reviewing this? In what context have they done that, and where is that request?

John Lopez: This was verbal over a telephone conversation with the now former circuit writer. I asked her to review the RDA and to provide some comments prior to submission. Those comments were incorporated, in terms of additional detail that she requested. That was provided in the final draft of the RDA. This was a minor project, but still within a buffer zone to a jurisdictional resource. The buffer zone itself is jurisdictional. That's why I had the applicant come before the commission.

So with this project, I need to know if this trail will be open to the general public, or if it to be restricted to school children during school hours, and if it is going to be open to the general public, has the applicant made any decisions on how best to maintain trash, etc. in that area?

Ernie Bizen: I think during school hours, it would be open to the school children. Then, Principal Curry, how would you like to see this handled?

Principal Curry: I guess I would look at it as any part of town resource, because the school is on town property, I'd see this as enhancing that particular piece of property for not only students but townspeople also. They have access to it. I know people have access to the outside property near the stadium if they want to play softball, tennis, or whatever. I'd expect that it would be a good place for anybody if they wanted to walk down there and see what has been enhanced by students and staff at AMS to provide for the entire community.

Alan Corey: These are existing trails. You'll just be cleaning them up to be used. (yes).

John Lopez: I draw ConCom's attention to my briefing memo of Oct. 29, 2014. If the commission reaches a negative determination, I think it would be appropriate to condition it reiterating that no work is to be done on the riparian bank, a sign measuring 2 feet by 3 feet saying ACC 002-005 shall be installed during the period of work. Just some standard conditions: no stockpiling of any construction material, and one thing that'd be nice to have, but can be conditioned at a later time, but just to have the applicant re-submit the approved plan, assuming it is approved, showing the 25 foot, 50 foot, 100 foot and 200 foot buffer zones, just to be consistent with all other projects. I know the applicant did contact the DPW director to see if we could help them with this. He can, he contacted me around 2 PM this afternoon, and I told him this can be conditioned after the fact.

Motion was made by Suzanne Egan to issue a negative determination, along with a 2 X 3 foot sign stating "ACC 002-005" installed during the period of work. Motion was seconded by Michael Bik. All in favor.

Request for Amended Order of Conditions #002- 1046 – Whittier Bridge I-95 Bridge Improvement Project (MaDOT)

John Lopez: This is a request for an amended Order of Conditions to install some sheet piling to meet some unexpected issues.

Steve DelGrosso, project manager for Walsh Construction on the Whittier Bridge Project: The original order had us installing sheet pile copper dam for the new southbound bridge that is being constructed. However, there are boulders in the way of us installing the sheet pile copper dam, so in order to remove the boulders, what we'd like to do is put in a silt curtain containment. We'll have to do some drilling and splitting of the rock to get the rock out of the way. Once the rock is out of the way and we come in and install the copper dam, as the original Order of Conditions stated, the temporary containment of the silt curtain will be there just for us to remove the obstruction, so we can put in a permanent copper dam. It is called a copper dam: it is a sheet pile containment, and each one of the locations of the new northbound bridge and the new southbound bridge, this is the new pier 3, just adjacent to the existing pier 3 of the existing bridge. In order for us to get this sheet pile containment in, we need to get the boulders out of the way. We can't contain it if the boulders are in the way. So we want to go in there with a silt curtain containment that will allow us to get the boulders out. Then we can install the sheet pile containment.

Suzanne Egan: This has been reviewed by everyone, I take it.

John Lopez: This will require a 401 water quality, which they have received. (DelGrosso = yes). I knew there was a conditional approval.

Motion was made by Suzanne Egan to approve the amended Order of Conditions as shown on the submitted plan on the Whittier Bridge Project. Motion was seconded by Michael Bik. Vote was unanimous.

Motion to adjourn was made by Kinsey Boehl and seconded by Alan Corey. AIF.

Meeting was adjourned at 8:02 P.M.