

**METHUEN CONSERVATION COMMISSION**  
**Minutes of Meeting – September 3, 2009**

The City of Methuen Conservation Commission held a public meeting on September 3, 2009, at 7:00 p.m. in the William Quinn Public Safety Building, Sanborn Hall. Present for this meeting were Suzanne M. Lamoureux, Chairperson, John Wilkens, Vice Chairperson, Christopher Parsons, Secretary, George Kazanjian, Financial Secretary and Commissioner Sandra Boulay. Also present were Joseph T. Giarrusso, Conservation Officer and Head Clerk, Dianne A. Dewan. Absent was Commissioner Isabel Tourkantonis.

The Chairperson called the meeting to order at 7:05 p.m.

**I. NOTICES OF INTENT:**

A. Amended Notices of Intent – DEP File #219-911 – MCC File # 04-013 – Emerald Pines Country Club and Estates – R & D Development Realty LLC – Wetlands Preservation Inc. (Con't from 08/20/09)

AND

B. Amended Notices of Intent – DEP File #219-967 – MCC File # 05-022 – Emerald Pines Country Club and Estates – R & D Development Realty LLC – Wetlands Preservation Inc. (Con't from 08/20/09)

The Chairperson re-opened the public hearing for items A and B above and read an e-mail dated September 3, 2009 from Curtis Young of Wetlands Preservation Inc. requesting a continuance to the meeting of September 17, 2009.

Hearing no public input at this time, a motion was made by Mr. Kazanjian; seconded by Mr. Parsons; so voted, UNANIMOUS to CONTINUE the hearings to September 17, 2009.

C. Notices of Intent – DEP File #219-1074 – MCC File # 09-005 – 19 Country Lake Road – Gregory Doyle – Stowers Associates, Inc. (Con't from 08/20/09)

The Chairperson re-opened the public hearing for the above noted project and read a letter dated August 25, 2009 from Hugh Dunkley of Stowers Associates Inc. requesting the hearing be continued to the meeting of October 1, 2009.

Hearing no public input at this time, a motion was made by Mr. Kazanjian; seconded by Mrs. Boulay; so voted, UNANIMOUS to CONTINUE the hearing to October 1, 2009.

D. Notices of Intent – DEP File #219-1075 – MCC File # 09-007 – Wheeler Street - Toll Brothers, Inc. – LEC Environmental Consultants, Inc. (Con't from 08/20/09)

The Chairperson re-opened the public hearing for the above noted project and read a letter dated September 2, 2009 from Ann Marton of LEC requesting the hearing be continued to the meeting of September 17, 2009.

METHUEN CONSERVATION COMMISSION  
Minutes of September 3, 2009 Meeting

Hearing no public input at this time, a motion was made by Mr. Kazanjian; seconded by Mrs. Boulay; so voted, UNANIMOUS to CONTINUE the hearing to September 17, 2009

E Notices of Intent – DEP File #219-10?? – MCC File # 09-008 – 83 Hampstead Street – Steven Douglass

The file in order, a motion was made by Mr. Parsons; seconded by Mr. Kazanjian; so voted, UNANIMOUS to ACCEPT the Notices of Intent for the above noted project.

The Chairperson opened the public hearing and Steve Douglas and Katherine Hirsh presented the proposed plans to construct a retaining wall and re-grade a section of existing yard that will impact Buffer Zone associated with Hawkes Brook.

After some discussion on the extent of work to be done, Ms. Lamoureux read comments from the Conservation Officer's report, letter dated 8/31/2009 from Natural Heritage Endangered Species Program and a memo dated August 31, 2009 from the City Engineering Department.

Ms. Lamoureux stressed the need for the Commission to see a cross section of the proposed wall.

Mr. Giarrusso explained the bonding requirement and suggested that the applicant submit a written request that the bond requirement be waived as they have complied with other projects on their property.

Hearing no public input and as requested by the applicant, a motion was made by Mr. Parsons; seconded by Mr. Kazanjian; so voted, UNANIMOUS to CONTINUE the hearing to the meeting of October 1, 2009.

**II. CALL TO ORDER:** The Chairperson called the regular meeting to order at 7:34 p.m.

**III. ACCEPTANCE OF AGENDA / AMENDMENTS (IF ANY):** A motion was made by Mr. Parsons; seconded by Mr. Wilkens; so voted, UNANIMOUS to ACCEPT the Agenda as posted.

**IV. ACCEPTANCE OF MINUTES:** 08/20/09 minutes were not ready. A motion was made by Mr. Kazanjian; seconded by Mr. Wilkens; so voted, UNANIMOUS to ACCEPT the minutes of 08/06/09 as written.

**V. NEW BUSINESS:**

A. Request for Determination of Applicability – MCC File# 09-007 – 2 Laura Lane – Russell Mailloux

Mr. Mailloux submitted a copy of the legal notice and presented the proposed project for a 12' by 18' shed/playhouse, 18' round above ground pool, 2' high retaining wall and the removal of an existing in-ground fuel tank located within the Buffer Zone of Bordering Vegetated Wetlands with the proposed limit of work 50' from the resource area. He also presented an alternate schematic for an inground pool rather than an above ground pool.

METHUEN CONSERVATION COMMISSION  
Minutes of September 3, 2009 Meeting

A motion was made by Mr. Kazanjian; seconded by Mrs. Boulay; so voted, UNANIMOUS to ISSUE Negative 3 Determinations with Standard Boiler Plate with standard conditions #2 and 7 waived under the state and #7 to require a letter upon completion under the local and adding the following special conditions:

- **Before Building Permit may be signed off**, erosion control consisting of double-staked hay bales and silt fencing shall be installed at the limit of work shown on the approved plan. Any missing wetland flags shall be replaced at this time. Installation shall be inspected and approved by the Conservation Commission or its agent.

- All stockpiling shall be located as shall be approved in the field.

- A dumpster will be used for the construction debris to prevent materials from blowing into the resource area(s) and it shall be covered at the end of each workday.

- Should the applicant decide to construct a 16' by 24' in-ground pool as shown on the supplemental drawing provided, a new zoning variance would be required before proposed change could be allowed.

- Prior to any field changes, a written request to include drawings shall be submitted for review and approval by the Commission and/or its agent. Should dewatering be required for the construction, the Commission shall be notified and shall approve the methods used.

**VI. OLD BUSINESS:**

The Chairperson took items out of order to accommodate those present.

C. Certificates of Compliance – DEP File #219-978 – MCC File # 05-027 – 160 Hampstead Street – Kevin Dube – Stowers Associates, Inc.

Mr. Lamoureux read comments from the Conservation Officer's report and a memo dated August 31, 2009, from the City Engineering Department.

A motion was made by Mr. Wilkens; seconded by Mr. Kazanjian; so voted, UNANIMOUS to ISSUE Certificates of Compliance for this project.

A. Enforcement

1) Emerald Pines Enforcement - Mr. Giarrusso updated the Commission noting that they still have not submitted the necessary information requested by the Commission. Therefore, he has been unable to complete the Enforcement Order. He has been speaking with the EPA and it may have been an oversight on the part of the Applicant in following up with them to determine if they are in compliance with their Federal Stormwater Permit.

METHUEN CONSERVATION COMMISSION  
Minutes of September 3, 2009 Meeting

- B. Extensions to Orders of Conditions – DEP File #219-926 – MCC File # 04-026 – Whisper Meadow – DC Development Group, LLC

As requested in a letter from the applicant, a motion was made by Mr. Parsons; seconded by Mr. Kazanjian; so voted, UNANIMOUS to ISSUE ONE Year Extensions to the above noted Orders of Conditions.

- D. Certificates of Compliance – DEP File #219-430 – MCC File # 94-023 – 48 Kensington Avenue – Charles F. Perrault, Esq.

Ms. Lamoureux read comments from the Conservation Officer's report and a memo dated August 31, 2009 from the City Engineering Department.

As a result of the City Engineering Department's comments, a motion was made by Mr. Wilkens; seconded by Mr. Kazanjian; so voted, UNANIMOUS to DENY the Certificates of Compliance.

After further discussion, Mr. Wilkens rescinded his motion for Denial, Mr. Kazanjian his second and so voted, UNANIMOUS. The applicant needs to provide more information to address Engineering's comments.

A motion was made by Mr. Wilkens; seconded by Mr. Kazanjian; so voted, UNANIMOUS to TABLE this item to the meeting of September 17, 2009, to allow for a better plan and explanation.

- E. Bond Estimate – MCC File # 05-022 – Emerald Pines, Phase 2, Station 8 through 24 – R & D Development Realty LLC – Wetlands Preservation Inc.

As recommended by the City Engineering Department, a motion was made by Mr. Wilkens; seconded by Mr. Parsons; so voted UNANIMOUS to SET the performance bond in the amount of \$376,500 with an additional amount of \$253,400 for St. Andrews Drive.

- F. Seizure of Bond # 20001135 – MCC File # 04-013 – Phase I, Emerald Pines – R & D Development Realty LLC

AND

- G. Seizure of Bond # 20001914 – MCC File # 05-022 – Phase II, Emerald Pines – R & D Development Realty LLC

Mr. Giarrusso noted that they have e-mailed signed copies of the bond renewals and they are to be next day airmailed to the Conservation office. He has not been able to locate them using the tracking information.

After a lengthy discussion, a motion was made by Mr. Wilkens; seconded by Mr. Kazanjian; so voted, UNANIMOUS to INITIATE SEIZURE of the bonds should they not be received by noon tomorrow.

METHUEN CONSERVATION COMMISSION  
Minutes of September 3, 2009 Meeting

- H. Certificates of Compliance – DEP File # 219-679 – MCC File # 99-041– Kristen Lane - Meadows Development, LLC

Ms. Lamoureux read comments from the Conservation Officer's report and a memo dated August 31, 2009 from the City Engineering Department.

A motion was made by Mr. Wilkens; seconded by Mrs. Boulay; so voted, UNANIMOUS to ISSUE Certificates of Compliance for the above noted project.

- I. Order of Conditions/Bond – DEP File #219-1076 – MCC File # 09-006 – Wheeler Street Improvements – City of Methuen

A motion was made by Mr. Wilkens; seconded by Mr. Kazanjian; so voted, UNANIMOUS to ISSUE Orders of Conditions with Standard Boiler Plate with General Conditions # 4 of the local changed from one to three years, # 8 and #24 waived and # 8 of the State to be waived and # 33 of the local to read 100' adding the following:

**Findings:**

The Notice of Intent filed by City of Methuen with plans by Andover Consultants, Inc., Sheet 1 thru 6 of 6 dated November 12, 2008, revised August 5, 2009, and "Replication Plan & Schedules" Sheets 1 and 2 of 2, dated August 5, 2009, is for the proposed roadway realignment and improvements and Stormwater improvements to Wheeler Street, which will result in the alteration of 5' of Bank and 2,073 sq/ft of Bordering Vegetated Wetlands, with wetland replication of 4,440 sq/ft (as stated in the submitted Notice of Intent) and Buffer Zone associated with an intermittent stream. Erosion control consisting of double-staked hay bales shall be used to control the limit of work.

**Special Conditions:**

- A. **Before any work is done**, the Contractor, job supervisor, City Engineer and Clerk of the Works shall meet with the Conservation Officer to review the Order of Conditions, Construction Sequence and timetable for the project. At this time, the contractor shall identify all stockpile areas, which shall be approved by the Commission and/or its agent. At this time, the contractor shall provide the Commission with documentation of the Certified Professional Wetland Scientist (CPWS) who is to supervise wetland replication work for the project.
- B. **Before ANY activity on the site may begin**, erosion control consisting of double staked hay bales and silt fencing shall be installed at the limit of work as shown on the submitted plan. The Conservation Commission or its agent shall inspect it before work may begin.
- C. **Before ANY activity on the site may begin**, copies of ALL easements shall be submitted to the Commission.

METHUEN CONSERVATION COMMISSION  
Minutes of September 3, 2009 Meeting

- D. The Clerk of the Works (also known as the Engineer) shall submit weekly progress reports to the Commission. The Commission office shall be contacted within 24 hours of any problems or violations of this Order.
- E. The Contractor shall submit a biologist report to the Commission on the required restoration/replication, once the areas are completed. This report shall outline the species makeup, quantity of plants, and shall include calculations on mitigated areas and soil conditions. The Commission and/or its agents shall review and verify compliance. This report shall not replace the required final mitigation report required for Certificate of Compliance.
- F. The Contractor shall be held responsible for any infringements beyond the scope of alteration approved under this Order. This shall include improper stockpiling of materials. Such infringements shall be considered a violation of this Order and the Contractor shall be issued fines of \$100.00 per day for each day that the area(s) are not in Compliance. Each alteration shall be considered a separate violation.
- G. Prior to any field changes, a written request to include drawings shall be submitted for review and approval by the Commission and/or its agent. Should dewatering be required for the construction, the Commission shall be notified and shall approve the methods used.
- J. Order of Conditions – DEP File #219-1077 – I-93 Northbound Exit 46 off-ramp and Intersection of Riverside Drive and Route 110 – Massachusetts Highway Department

A motion was made by Mr. Wilkens; seconded by Mrs. Boulay; so voted, UNANIMOUS to ISSUE an Order of Conditions with the following:

**Findings:**

The Notice of Intent filed by Mass Highway Department with plans by TranSystems is for the proposed roadway (Off Ramp) realignment and improvements and Stormwater improvements to the Northbound off ramp to RT 93 and installation of traffic signal and cross walks on RT 110 and Riverside Drive which will result in the alteration of 460 sq/ft of Bordering Land Subject to Flooding and Buffer Zones associated with the Merrimack River. Erosion control consisting of double-staked hay bales shall be used to control the limit of work.

**Special Conditions:**

- A. **Before any work is done**, the Contractor, job supervisor, City Engineer and Clerk of the Works shall meet with the Conservation Officer to review the Order of Conditions, Construction Sequence and timetable for the project. At this time, the contractor shall identify all stockpile areas, which shall be approved by the Commission and/or its agent.

METHUEN CONSERVATION COMMISSION  
Minutes of September 3, 2009 Meeting

- B. **Before ANY activity on the site may begin**, it will be determined if erosion control, consisting of double staked hay bales and silt fencing, would be needed to be installed to control the limit of work as shown on the approved plans. Should it be required the Conservation Commission or its agent shall inspect it before work may begin.
- C. The Clerk of the Works (also known as the Engineer) shall submit weekly progress reports to the Commission. The Commission office shall be contacted within 24 hours of any problems or violations of this Order.
- D. The Contractor shall be held responsible for any infringements beyond the scope of work approved under this Order. This shall include improper stockpiling of materials. Such infringements shall be considered a violation of this Order and the Contractor shall be issued fines of \$100.00 per day for each day that the area(s) are not in Compliance. Each alteration shall be considered a separate violation.
- E. Prior to any field changes, a written request to include drawings shall be submitted for review and approval by the Commission and/or its agent. Should dewatering be required for the construction, the Commission shall be notified and shall approve the methods used.

**VII. INSPECTOR'S REPORT:** In addition to his written report, Mr. Giarrusso noted the following:

- 1) Mr. Giarrusso explained the need for an Emergency Certificate at the rear of 9 Harris Street for the maintenance and repair of beaver pipes to assist in the regulation of water flow with a 4' x 4' breach of the existing beaver dam.

A motion was made by Mr. Kazanjian; seconded by Mrs. Boulay; so voted, UNANIMOUS to ISSUE the Emergency Certificate as requested.

- 2) Mr. Giarrusso updated the Commission on the clean-up in North Street by ENPRO for an accident that happened two years ago. They are still cleaning up the diesel fuel that ended up in the marsh. They probably have less than a cubic yard of material to remove. It is finally dry enough to go in there and take it out. It is his opinion that it is in the best interest that the Commission allow them to clean it out and close the file.

**VIII. OTHER BUSINESS:** There was no other business at this time.

**IX. ADJOURN:** A motion was made by Mr. Kazanjian; seconded by Mrs. Boulay; so voted, UNANIMOUS to ADJOURN the meeting at 8:30 p.m.

Respectfully submitted by:

Reviewed by:

Approved on:

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Dianne A. Dewan  
Head Clerk

\_\_\_\_\_  
Christopher Parsons,  
Secretary

11/05/2009  
Date Approved