



TOWN OF UXBRIDGE  
CONSERVATION COMMISSION  
21 SOUTH MAIN STREET  
UXBRIDGE, MASSACHUSETTS 01569  
508-278-8600, x 2013

Posted by  
Uxbridge  
Town Clerk

**MEETING MINUTES**  
September 6, 2011

DEC 15 '11 PM 3:27

*Please note some items may have been taken out of agenda order.*

Minutes of the Uxbridge Conservation Commission regular meeting held on **Tuesday, September 6, 2011**, at 7:00 P.M. in the **Lower Town Hall room, Uxbridge Town Hall, 21 South Main Street, Uxbridge, MA:**

**Conservation Commission Board Members Present:** Russell Holden, Dave Lewcon, Tracy Tibedo, Michael Potaski and Larry Lench, arrived at 7:12 pm.

It being 7:00 pm, the meeting being properly posted, duly called and a quorum being present, Chairman Holden called the meeting to order.

**OLD BUSINESS**

**Public Hearings ~ none**

**Violations/Potential Violations:**

**89 Johnson Road (Map 48, Parcel 1426)** – No new information, discussions shall continue to the next scheduled meeting.

**Other:**

**Uxbridge Wetlands Bylaw** – Commissioner Tibedo shall be revising the wetlands bylaw. Discussions shall continue to the next scheduled meeting.

**NEW BUSINESS:**

**Public Hearings:**

**RDA FY12-01, Laurel Brook Club – 90 Laurel Street (Map 43, Parcel 1164)** – Remove approximately 200 yards of silt and leaves on the upper Bazely Pond near the bridge on Laurel St. Mr. Kevin Sanford, member of the Laurel Brook Club was present and spoke on behalf of the project. The process takes about 2 days to complete. Mr. Sanford will be providing the Commission with an addendum indicating what Laurel Brook Club is doing about a second area that was impacted, due to the recent storm. Following discussion, **MOTION** by Commissioner Potaski to issue a Negative Determination of Applicability for the application listed as **RDA FY12-01 – Laurel Brook Club**. Seconded by Commissioner Lewcon, the motion carried unanimously. The Commission will sign the decision at the next scheduled meeting.

**Violations/Potential Violations:**

**102 Homeward Avenue (Map 18A, Parcel 791)** – Anonymous call received from the Building Department. The caller indicated there was a small shed on the property and within a few days it was no longer a small shed, instead there was a large garage being built on the property. Also, truckloads of material were being brought onto the property, yet no material was leaving the property. Mr. Cesar Calderon, the owner of the property was present. Commissioner Holden indicated that this property

previously had a violation last year. The Commission was provided pictures of the area that was cleared out recently. Mr. Calderon indicated that the previous structure that was on this property collapsed and a new one was being constructed at the same spot on the property. On August 22, 2011, the Building Department sent a letter to Mr. Calderon indicating that the Building Commissioner believes he is in violation of "Violation of Massachusetts State Building Code". The Commission will be conducting individual site visits. Following discussion, **MOTION** by Commissioner Potaski to continue discussions to September 19<sup>th</sup> and to do a site visit for the property listed at 102 Homeward Avenue. Seconded by Commissioner Lewcon, the motion carried unanimously.

Commissioner Lewcon recused himself (abutter to next discussion).

**187 West River Road (Map 13, Parcel 2453)** – Anonymous letter received on August 18th, the letter indicated the following information: In the past, I have been told not to disturb the wetlands on my property. Off and on my attention has been drawn on 187 West River Road because of what is being done to a wetland behind that house. Even though there is water in the wetland area in the spring and early summer the owner has been and is currently mowing the plants that grow in it. Last year, I observed a large area of wild plants to the left that was all killed. I have also seen someone dumping grass in huge piles on the edge of that same area. I feel that the owner is turning the swamp into a summer lawn and that the large compost pile might be used to fill in an area that is wet." Mr. & Mrs. James Kelleher, resident of the property was present and discussed property. Mrs. Kelleher indicated that the area behind the house that is wet is a vernal pool. Mr. Kelleher mows up to the area of the swamp and dumps the yard waste in the wooded area. Mrs. Kelleher indicated that they have lived at the residence for 13 years and haven't done anything different to the land. Mrs. Kelleher also indicated that some of the grass clippings are given to one of the members of the Conservation Commission. Commissioner Holden reviewed the wetland online and indicated that this area would be categorized as isolated land that is subject to flooding. The land doesn't appear to have a link with wetlands that are bordering the West River. Isolated land that is subject to flooding does not have a buffer zone, nor is it considered bordering vegetated wetlands. However, it is protected for the wetlands that it is. Generally, there should be no cutting in the area that does fill in with water. Mr. Kelleher indicated that he felt if he did cut the area, it would actually help the area and not have it get clogged up or overgrown. Commissioner Holden indicated that any natural vegetation should not be removed. One of the things that the natural vegetation does is it helps with evapo-transportation and will actually wick the water right out of the wetland. One advantage of having trees or bushes, etc. will help the wetlands. No fertilizers can be placed near these wetlands. The Commission shall be conducting a site visit to review the property.

Commissioner Lewcon returned to our meeting.

**MOTION** by Commissioner Lench to take "Other: DEP #312-770, Request for Certificate of Compliance" out of order to discussion. Seconded by Commissioner Potaski, the motion carried unanimously.

**DEP #312-770, Request for Certificate of Compliance – George Nydam, 92 Sutton St (Map 11, Parcel 3041)** – Mr. George Nydam was present to discuss the property. The wetland (spring) is on the corner of the lot next to the abutter that lives at 84 Sutton Street. The retaining wall is the only part that is on the 100' buffer zone. The reason for the retaining wall is due to an extensive septic system (field) that needed to be placed on the property. The Commission shall be conducting a site visit on the property. Following discussion, **MOTION** by Commissioner Tibedo to continue discussions for

the application listed as **DEP #312-770, Request for Certificate of Compliance** to the next scheduled meeting. Seconded by Commissioner Lewcon, the motion carried unanimously.

**MINUTES. MOTION** by Commissioner Lench to approve the Conservation Commission Meeting Minutes dated August 15, 2011 as amended. Seconded by Commissioner Tibedo, the motion carried 4-0-1.

**Other:**

**Update of possible gravel removal operation in the ball field at Pout Pond** – On November 16, 2009, a proposal was brought up to have a gravel removal operation to be on the ball field near Pout Pond. Commissioner Lewcon indicated that back on November 16th, the Commission made a motion to support the project and it appears that has been taken literally as the Commission approved the project. In the last two years, the Board of Selectmen have been approached on this subject. Commissioner Lewcon spoke about the property, indicating how Pout Pond was acquired. On the deed, Pout Pond was conveyed to the inhabitants of the Town of Uxbridge. The property could not be conveyed to the Conservation Commission since it's not a legal entity. But as a reference, the Town of Uxbridge Annual Report for 1966, money that paid for the purchase of Pout Pond was from the Conservation Commission account. According to the Director of Conservation Restriction Review Program of the Commonwealth of Massachusetts Executive Office of Energy & Environmental Affairs because Pout Pond was paid for by the Conservation Commission it automatically makes it Chapter 47 property described in the Massachusetts State Constitution. It also gives the Conservation Commission governance. The land cannot be disposed of, unless the Conservation Commission decides that the land is considered useless. It must then be passed by 2/3 vote at Town Meeting, then 2/3 vote of the Legislature and with the approval and signature of the Government. The Governor has consistently enforced the mitigation requirements of equal or greater value of the property being acquired.

Commissioner Potaski made a comment about the property; any public property cannot be bartered, sold, exchanged, traded or auctioned to a specific individual without going through a RFP process or property procurement procedures.

Commissioner Potaski commented on the proposal stating that it is not that we will be given the title of the land to someone, we will be allowing the individual to permit the property to mine the gravel, however the Town will still hold the title to the land and the Town will still own the property. Commissioner Tibedo inquired if there is a proposal that has been brought forward and would like to review the proposal. There has been no formal proposal brought to the Conservation Commission. Following discussion, **MOTION** by Commissioner Lewcon to rescind the motion concerning this project made on November 16, 2009. Seconded by Commissioner Potaski, continued discussions on the project included having a written proposal to allow the Commission to comment and therefore cannot support or contest the project, the motion carried 3-2-0. The Commission shall continue discussions at a future meeting when a proposal is provided.

The Commission received a faxed document from Andrews Survey & Engineering at 5:13 pm on September 18<sup>th</sup> requesting a continuance. The Administrative Assistant did not receive the fax until September 19<sup>th</sup>.

**Pout Pond/Legg Farm** – Pout Pond is no longer being tested for E.Coli bacterial testing. Discussions also included increasing revenue at Pout Pond to help support the pond.

Commissioner Holden requested an inventory be done of all the items bought at Pout Pond over the past year.

**MOTION** by Commissioner Potaski to adjourn the meeting at 8:18 P.M. Seconded by Commissioner Lench, the motion carried unanimously.

Respectfully Submitted by Donna C. Hardy, Conservation Commission Administrative Assistant.

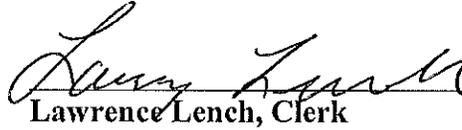


Russell Holden, Chairman

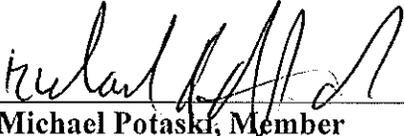
Vice-Chair (vacant)



Dave Lewcon, Treasurer



Lawrence Lench, Clerk



Michael Potaski, Member

Tracy Tibedo, Member

12/5/11

Date