

TOWN OF
STONEHAM
MASSACHUSETTS

Town Hall
35 Central Street

Stoneham Conservation Commission
781-279-2696

STONEHAM CONSERVATION COMMISSION
MINUTES OF MEETING
SEPTEMBER 7 2022 REMOTE 5 PM

Please join meeting from your computer, tablet or smartphone.

<https://meet.goto.com/677252549>

You can also dial in **United States: +1 (571) 317-3122** Access Code: **677-252-549**

Motion to discuss pending litigation and adjourn from executive session and not return to regular session adopted by Bob Parsons seconded by Norman L'Esperance

Roll call Bob Parsons(BP), Rob Fotino, Megan Day, Ellen McBride(EM), Alex Rozycki, Rob Fotino, Norman L'Esperance, and Jessica Gerke

Dennis Sheehan(DS), Jon Witten(JW) KP Law, Raymie Parker, Bob Galvin(BG)

Executive Session- To discuss strategy with respect to pending litigation or litigation that is demonstrably likely where an open meeting may have a detrimental effect on the litigating position of the Stoneham Conservation Commission and the chair so declares pursuant to Mass. Gen. L. c. 30A sec. 21(a)(3).

Ellen McBride begins with whoever is negotiating with Corcoran understands all conservation outstanding issues. Stoneham Conservation Commission (CC) are the DEP agents in the town to make sure you know all of the background. When Corcoran first started CC issued an enforcement order against Weiss farm. Stayed until hearings were over. Not everyone knew that or thought it mattered. Trying to make sure we are on the same plane.

Conservation Commission is not digging in their heels, important all involved know what's involved. DEP confirmed applicant never applied for extension, covid extension dates, no valid extension.

Pump hasn't run and concerned wetlands has migrated, another delineation occurs. When George Seibold and Dennis Sheehan talk to Corcoran they need to know all the specifics of past.

Bob Parsons agrees a lot of history.

Jon Witten has been involved with litigation since day one.

Bob Galvin understands CC reliance on Jon Witten. EM asks DS if JW is counsel for the Town. DS answers BG is head attorney for town. Bob Galvin claims Jon Witten is backup counsel in Towns like Marshfield

Con com lost in superior court years ago, if extension doesn't exist they need to refile. Enforcement order pending, if wetlands have changed they'll be delineated

BG has never been at the table at Weiss Farm. Has never been in discussions.

Conservation related issues – enforcement action, stay extended further dependent on result, stay ending in Sept, must report to superior court, superior court will schedule a hearing for judgment.

Amato will likely call and ask how it will enforce since Weiss farm can build

Town appealed DEP order of conditions and resolved Feb 1 2019 by judgment of superior court. Final order of conditions #24 no work until all appeal periods have expired. Pandemic stay 3/10/2020 affects order tolling OOC 6/10/21 added 462 days to final OOC permit until 5/8/2023

JW says Executive orders and covid protocol make it hard to argue. Amato discussions who litigate, does enforcement order have legs? Redelineation, pump, wetlands migration

BG enforcement order asks them to restore land they altered, practical utility in restoring area that will then be altered unfair to Mrs. Weiss, superseded

JW issue never adjudicated. Corcoran can be put on notice for resolution, flooding. Global solution for flooding.

EM flooding, pump has to run, drainage ditches clogged, weir

BP Does CC have fight?

BG Enforcement order, ask Corcoran to address issues of weir and pump

BP Those issues were part of objections

JW lengthy decision from DEP ignored town left, open issue of weir and pump, problem for Corcoran. Violates wetlands Protection Act

GS State ruled on their behalf, 40B fight, town cleanout sunset neighborhood, “our” fight is the water

EM agrees DEP overrode CC= lost 6 years ago

DS Aware of CC wishes, DEP decisions, what was submitted can be improved, mitigation measures

EM original NOI nothing to do with pump, ditches

DS Problems are being addressed

BP are we at the point that superseding is active, they are willing to negotiate? Is there an opportunity to improve upon dreadful plan to work with CC on less units and better drainage?

DS Most need 3-5 priorities from CC. Clean ditches? Pump? Most useful big priorities

BP watershed perspective at culvert, what would need to be done to improve drainage, get rid of pump?

JW global solution, position of Corcoran is weir and pump are not their problem. OOC and superseding and judicial decision that doesn't matter. Weir/pump will bring another enforcement order, they could fix this, 264 units is a time bomb

GS Tone has changed, moving forward, will get the water right

EM if you don't know what you don't know, this has been coming for a long time. CC should be at table if discussing water, peer review hired.

JW why wasn't this addressed during superseding order? Project with pump needs new delineation. Valid ooc. Court cases dismissed. Can it get built? Left lane hurdle, pump hurdle.

AR if ooc has reviewer wetlands mitigated. MS4 requirement? If OOC wasn't expiring during covid?

JW permit shorter window, after 462 days

BG line determined as resource area and work authorized, work is subject OOC

JW weir and pump problematic

EM asks GS and DS about water, are they touching weir and pump. Previous discussions watershed study recommended.

DS Corcoran feels like they have won this argument. Why have a 3rd muddy the waters? No incentive. Ditches, pump, culvert, ask for \$, infrastructure improvements, no legal or wetlands at table

BP watershed study #1

EM Enforcement order weir, pump, drainage ditches goes with land

GS storm water management and wetlands specialist not at table as less people is better, drought may make wetlands smaller.

EM New storm water measures came after approved. They don't have to look at MS 4 requirements. Drought not a time to measure streams.

JW Attorney needs checklist from Corcoran. Weir and pump could trigger MS 4 and wetlands. They are trying not to touch it, may not be possible to ignore jurisdictional regions. Hard with 264 units without permitting.

DS Units is part of their math, huge tradeoff, HAC process, Jeffrey Durke our engineer, housing appeals ruled they do not need to build left lane

BP as legal counsel what is next best course of action?

JW global response if they are going to settle. Select board approves legal budget, CC can be outlier.

BP wants to be involved in global settlement.

GS Meeting Monday, getting close, exec session with select board, exec meeting before summit, "doing the right thing for the Town."

EM listen to the CC

GS Common sense can't have tunnel vision, work with them, its not going to be 264

JW Have select board incorporate review. Corcoran file NOI around pump station, opportunity to get global settlement, some bluffing maybe from CC but nothing to lose.

BG All litigation involving town is DS, permit in affect, CC should be part of solution, pump, ditches, stream, dam not part of original.

JW settlement for buildable project, CC has to be part of decision as its jurisdictional

DS Chicken/egg. Don't think we will get wetland study, recommendations for improvements.

JW PE sign off or provide 5 things, abutters potential issue

DA peer review environs, improvement on Corcoran

EM Ingleborg would be great, whole property is wet

JW will talk to BG about MS 4. Amato will be in touch soon.

DS not helpful Amato, Weiss economic incentive

JW Amato is difficult, very confrontational, best not to engage Amato

DS Timing good now

EM Responsibility as agents of the state

DS We brought up enforcement order, nothing new. Another wetland study not feasible. Time, creates another document to fight over, imperfect solution.

EM asks for another meeting

DS Deadlines arbitrary

BP Send along list of most important to DS: watershed study

DS Improvements that would benefit area

EM Ditches downstream, inverted culvert, pump not running, weir dam, if ditches cleared across Franklin, if culvert tilted, there would be so much water downstream. Watershed study helpful to know where it goes

BG Reality is OOC with original project adjudicated, we can't stop them

DS Ducktaping a nightmare

JW We know problems are coming, Corcoran best interest to address headache