



**TOWN OF TEWKSBURY  
CONSERVATION COMMISSION  
1009 Main Street  
Tewksbury, MA 01876**

Daniel Ronan, Chairman  
Evan Walsh, Vice-Chairman  
Patrick Holland  
Dennis Sheehan

**Meeting Minutes  
January 5, 2022**

The meeting was called to order at by Daniel Ronan, Chairman, at the Tewksbury Town Hall at 7:00 p.m. In attendance was Patrick Holland and Dennis Sheehan.

Evan Walsh was present via video call.

**Approval of Meeting Minutes**

There were no meeting minutes presented for approval.

**A) Emergency Certification, Linda Gilligan, 30 Regina S Drive, Assessors Map 109, Lot 6**

Mr. Fontaine noted that this was for a failed Title V and explained that the Health Department issued an Order to connect to town sewer. Based upon the Order, Mr. Fontaine issued an Emergency Certification to be ratified by the Conservation Commission. Mr. Fontaine explained that there is some trench work that is approximately 20-30 feet from a BVW and is within the 100-year flood plain. Mr. Fontaine noted that he will coordinate with the contractor performing the work to ensure that there are erosion and sediment controls as necessary, which is also a condition in the Emergency Certification.

**MOTION: Mr. Holland made the motion to ratify the Emergency Certification, Linda Gilligan, 30 Regina S Drive, Assessors Map 109, Lot 6; seconded by Mr. Sheehan and the motion unanimously carried 4-0.**

**B) Emergency Certification, Kenneth & Karin Keyser, 12 Highland View Road, Assessor Map 23, Lot 47**

Mr. Fontaine noted that this is a similar situation as the previous matter with a failed Title V and explained that the Health Department issued an Order to connect to town sewer. Based upon the Order, Mr. Fontaine issued an Emergency Certification to be ratified by the Conservation Commission. Mr. Fontaine explained that the work is approximately 20

- 30 feet away from BVW and noted that he is in coordination with the contractor who is setting up erosion and sedimentation controls.

Mr. Ronan opened the hearing to the public and no one came forward to comment.

**MOTION:** Mr. Holland made the motion to ratify Emergency Certification, Kenneth & Karin Keyser, 12 Highland View Road, Assessor Map 23, Lot 47; seconded by Mr. Sheehan and the motion unanimously carried 5-0.

**C) Emergency Certification, Carol Reitano, 119 French Street, Assessor Map 9, Lot 9**

Mr. Fontaine explained that this is also for a failed Title V. The health department issued an Order to tie into the town sewer and Mr. Fontaine followed up with an emergency certification again coordinating with the contractor performing the work to make sure that they install erosion sediment controls same two conditions as the last one just installing them and coordinating with him.

**MOTION:** Mr. Holland made the motion to ratify Emergency Certification, Carol Reitano, 119 French Street, Assessor Map 9, Lot 9; seconded by Mr. Sheehan and the motion unanimously carried 4-0.

**D) Violation Notice, Jim Scalley, 11 Heidenrich Drive, Assessor Map 2, Lot 19**

Present was James Scalley, 11 Heidenrich Drive.

Mr. Fontaine explained that he visited this site as the result of an anonymous photo he received showing disturbance of wetlands. Mr. Fontaine noted that when he visited the site there was a large leaf pile in a wetland area and an approximately 1,800 square foot section of the wetland was cut; no fill had been brought in. Mr. Fontaine explained that he notified the homeowner of the violation, and the homeowner was told to rectify the situation by removing the leaf pile from the wetlands and to keep it at least 25 feet from the wetland area and out of the no disturb zone. Mr. Fontaine noted that he also noticed a pile of corrugated pipe in the wetlands and requested this also be removed and kept 25 feet from the wetland area. Mr. Fontaine explained that once the leaf pile is removed, the area should be allowed to naturally revegetate. If the area has not seen successful regrowth by July, 2022, a planting or restoration plan may be required in order to restore the area.

Mr. Holland referenced photograph two and asked if it is a stream and Mr. Fontaine confirmed this. Mr. Holland noted that he is in agreement with removing the materials and seeing if the area revegetates on its own.

Mr. Scalley noted that the corrugated pipe has been removed offsite and he has removed half of the leaves, however, he cannot find a location to dispose of them. Mr. Scalley explained that he spoke with the DPW to obtain permission to dispose of the leaves and was told he could not do this. It was suggested that Mr. Scalley try reaching out to Waste Management to see if they can assist. Mr. Scalley requested a copy of the bylaws so he can better understand where he went wrong, and Mr. Fontaine suggested he coordinate with him so he can provide this. Mr. Ronan noted that the bylaws can also be found on the town's website.

Mr. Fontaine noted that this was issued as a violation notice rather than an Enforcement Order as the homeowner has been compliant.

**E) Public Hearing, Restoration Plan, Hancock Associates of Marlborough, MA, 1022 South Street, Assessors Map 109, Lot 4, continued from December 15, 2021**

This matter was tabled to the end of the meeting as a representative was not present.

**F) Public Hearing, Notice of Intent, GCG Associates of Wilmington, MA on behalf of the Town of Tewksbury Department of Public Works, 1475 & 1481 Main Street, Assessor Map/Lot 59-60 & 59-115, respectively, DEP File #305-1152**

Present was Kevin Hardiman, Town Engineer, and John GCG Associates.

Mr. Hardiman explained that this project is for the construction of a sidewalk along Main Street from Colonial Drive to Victor Drive and noted that they received approximately \$220,000 from a Housing Choice Grant last yet for the construction of the sidewalk. Mr. Hardiman noted that is within resource areas and buffer zones, which is why they are before the Commission.

Mr. explained that the sidewalk will provide safe walking access to the Wynn School up Victor Drive and noted that there is an intermittent stream as well as a culvert, which is where the resource area is located. Mr. noted that there is an existing guardrail in this area as it is steep, as well as a parking lot, the culvert and wetlands. Mr. explained that they need to push the guardrail out a little in order to add the walk and noted that erosion controls will be installed where needed.

Mr. Holland asked if the guardrail will be on the inside, or the outside of the sidewalk and Mr. John noted on the outside. Mr. Holland asked if there is any way to put netting on the guardrail where the creek is located as trash (shopping bags, paint cans, etc.) are blowing into the creek. Mr. Hardiman noted that they will look into putting something in this area to help address this and explained that they could install it a minimum of 10 feet to either side of the culvert.

Mr. Fontaine noted that he would recommend the following conditions: standard conditions number 1-5 and 9-19, establish erosion controls as per the site plan, and

coordinate with Mr. Fontaine to inspect the erosion and sediment controls prior to construction beginning.

Mr. Ronan noted that he is pleased to see more sidewalks being installed as this is one of the biggest complaints from residents.

Mr. Holland asked who will be responsible for maintaining snow removal from the sidewalk and Mr. Hardiman noted that the town will be responsible for snow removal.

Mr. Ronan opened the hearing to the public and no one came forward to comment.

**MOTION: Mr. Holland made the motion to close the public hearing; seconded by Mr. Sheehan and the motion unanimously carried 4-0.**

**MOTION: Mr. Holland made the motion to approve Notice of Intent, GCG Associates of Wilmington, MA on behalf of the Town of Tewksbury Department of Public Works, 1475 & 1481 Main Street, Assessor Map/Lot 59-60 & 59-115, respectively, DEP File #305-1152, standard order of conditions 1-5 and 9-19, additional fencing shall be attached to the guardrail a minimum of 10 feet from either side of the culvert; seconded by Mr. Sheehan and the motion unanimously carried 4-0.**

Mr. Hardiman asked if it is known what the timeframe is on receiving the Order as they would like to begin construction as soon as possible and Mr. Fontaine noted that he would anticipate tomorrow. Mr. Hardiman explained that the biggest challenge they may be up against is the vertical granite curbing as he has heard that there is a long wait time for the vertical granite curbing.

- G) [Public Hearing] Notice of Intent, BSC Group of Worcester, MA, 337/K137E & L138E Transmission Line Right of Way, which extends in a general southwesterly direction from the substation at 206 Washington Street (Assessors Map/Lot 49-34) toward the Tewksbury/Billerica town boundary line near Farwood Road (Assessors Map/Lot 7-72), DEP File #305-1151**

Present was Allison Milliman of BSC Group.

Ms. Milliman explained that this is another soil boring project along the transmission line; the 337/K137E and L138E transmission line project, and that she has presented soil boring projects to the Commission several times in the past. Ms. Milliman explained that the existing transmission lines run through the right-of-way where they are planning future maintenance replacement of the structures. As a result, subsurface conditions need to be looked at to properly engineer the replacement structures. Ms. Milliman noted that portions of the right-of-way run through bordering vegetated wetlands and there are also stream crossings required, resulting in the need for construction mats to gain access to those locations. Ms. Milliman explained that the soil boring itself is approximately 4 to 6 inches in diameter and all impacts associated with the work are temporary in nature. Once the work is completed, the temporary construction mats will be pulled out of the

wetland areas and the areas will be allowed to re-vegetate to pre-existing conditions. Ms. Milliman explained that these wetlands are mostly maintained and emergent, or shrub type but then covered because they are under existing utility lines.

Mr. Fontaine noted that this type of project has previously been before the Commission and explained that the applicant is seeking limited project status under 310 CMR 10.533 D for utility maintenance. As a result, if the Commission approves this matter, then the applicant will have to abide to the WPA to the best practical measures. Mr. Fontaine suggested the Commission consider the following conditions: Standard Orders 1-5 and 9-19, as well as monthly status reports, the best management practices cited in the Notice of Intent shall be used, and coordinate with Mr. Fontaine once construction begins, a photo documents once the soil boring and construction mat areas have been restored.

Mr. Sheehan noted that there have been fires as a result of the piles of woodchips left behind on the ground. Ms. Milliman explained that they mow, and the material is left on the soil surface. Mr. Sheehan noted that the wood chips being left could be an issue and Ms. Milliman asked where they would move the wood chips to. Ms. Milliman explained that this sounds like a larger discussion that may fall under the five-year vegetation management that occurs as they do go through every five years to maintain the vegetation under the lines. Mr. Holland suggested spreading the wood chips rather than leaving them in piles. Mr. Sheehan suggested Mr. Fontaine research this further.

Mr. Ronan opened the hearing to the public and no one came forward to comment.

**MOTION: Mr. Holland made the motion to close the public hearing; seconded by Mr. Sheehan and the motion unanimously carried 4-0.**

**MOTION: Mr. Holland made the motion to approve Notice of Intent, BSC Group of Worcester, MA, 337/K137E & L138E Transmission Line Right of Way, which extends in a general southwesterly direction from the substation at 206 Washington Street (Assessors Map/Lot 49-34) toward the Tewksbury/Billerica town boundary line near Farwood Road (Assessors Map/Lot 7-72), DEP File #305-1151 standard order of conditions 1-5 and 9-19, monthly reports shall be submitted to the Conservation Agent, best management practices as stated in the Notice of Intent shall be followed, photographs of the restoration shall be submitted to the Conservation Agent, the wood chips should be spread rather than piled; seconded by Mr. Sheehan and the motion unanimously carried 4-0.**

**H) [Public Hearing] Notice of Intent, Vanasse Hangen Brustlin, Inc (VHB) on behalf of the Town of Tewksbury Department of Public Works, Bayberry Lane, Assessor Map 71, DEP File #305-1143. Continued from the October 20, 2021 meeting.**

Present was Kevin Hardiman, Town Engineer.

Mr. Hardiman noted that they are requesting to continue this matter and explained that during the process of the emergency repair they found that the two culverts that they were intending to use for the water bypass during the construction, one had totally collapsed, and the other was partially collapsed. As a result, they had to take a step back to figure out how they will get the stream from one side to the other during construction,

**MOTION: Mr. Holland made the motion to continue Notice of Intent, Vanasse Hangen Brustlin, Inc (VHB) on behalf of the Town of Tewksbury Department of Public Works, Bayberry Lane, Assessor Map 71, DEP File #305-1143 to January 19, 2022 at 6:30 p.m.; seconded by Mr. Sheehan and the motion unanimously carried 4-0.**

**I) Wetland Protection Funds**

Mr. Fontaine noted that he has nothing for this meeting but will likely have something for the next meeting.

**Old Business**

There were no items discussed.

**New Business**

Mr. Fontaine explained that he would like to discuss a regulatory citation that frequently arises, which is a utility exemption in the WPA. Mr. Fontaine noted that there is an exemption for activities being conducted to maintain, repair, or replace, but not to substantially change or enlarge an existing and lawfully located structure or facility used in the service of the public and used to provide electric, gas, water, sewer, telephone, telegraph, and other communication services provided, said work utilizes the best practical measures to avoid or minimize impacts to wetland resource areas outside the footprint of the structure or facility. Mr. Fontaine referenced the section he highlighted on the first page of the Town's bylaw and noted that it appears it was meant to mirror that citation, because it states "maintaining, repairing, or replacing, but not substantially changing or enlarging, existing and lawfully located building or facility using the service of the public to provide electric, gas, water, telephone, or other telecommunication services. Mr. Fontaine noted that "sewer" was omitted from the list of utilities, and, as a result, he would like to discuss with the Commission how they feel he should be interpreting this. Mr. Fontaine explained that he views it as a public utility that would go with water.

Discussion took place on waterline replacement projects and Mr. Fontaine noted that often times the waterline in place is abandoned and a new water line is put in so that the old ones no longer

working, but it is still there beneath the subsurface. Mr. Fontaine explained technically this could be considered a replacement and would fall under this exemption as well. Mr. Walsh expressed concerns with the old pipes being left behind containing asbestos and Mr. Hardiman explained that this is something they aggressively go after the removal of.

## **Administrators Report**

There was no Administrators Report provided.

## **Adjournment.**

**MOTION: Mr. Holland made the motion to adjourn; seconded by Mr. Sheehan and the motion unanimously carried 4-0.**

**Approved: April 20, 2022**

*List of Documents for the 1.5.2022 Meeting  
can be found in the Community Development Office*

**06:30 P.M. Call Meeting to Order  
Approval of Minutes**

September 15, 2021; October 6, 2021; October 20, 2021; November 3, 2021; November 17, 2021; December 1, 2021; December 15, 2021

**A. Emergency Certification, Linda Gilligan, 30 Regina S Drive, Assessor Map 109 Lot 6**

*New Documents*

- 1) Un-ratified Emergency Certification
- 2) Health Department Order
- 3) Site Plans

**B. Emergency Certification, Kenneth & Karin Keyser, 12 Highland View Road Assessor Map 23 Lot 47**

*New Documents*

- 1) Un-ratified Emergency Certification
- 2) Site Plan
- 3) Health Department Order

**C. Emergency Certification, Carol Reitano, 119 French Street, Assessor Map 9 Lot 9**

*New Documents*

- 1) Un-ratified Emergency Certification
- 2) Health Department Order
- 3) Site Plans

**D. Violation Notice**, Jim Scalley, 11 Heidenrich Drive, Assessor Map 2 Lot 19

New Documents

- 1) Violation Notice
- 2) Field Notes dated 12/21/2021
- 3) Photo Log

**E. [Public Hearing] Restoration Plan**, Hancock Associates of Marlborough, Massachusetts, 1022 South Street, Assessor Map 109 Lot 4. Continued from 12/15/2021 Conservation Commission meeting.

New Documents

- 1) Application Package:
  - a. Project Narrative
  - b. Enforcement Order
  - c. Figures
  - d. Native Seed Mix Specification
  - e. Abutter Notification Information
  - f. Restoration Site Plan
- 2) Photo Log

**F. [Public Hearing] Notice of Intent**, GCG Associates of Wilmington, Massachusetts on behalf of the Town of Tewksbury Department of Public Works, 1475 & 1481 Main Street, Assessor Map/Lot 59-60 & 59-115, respectively. DEP File # 305-1152.

New Documents

- 1) Application Package:
  - a. USGS Topographic Map
  - b. Project Summary
  - c. FEMA Flood Map
  - d. NHESP Map
  - e. GIS Wetland Maps
  - f. Stormwater Compliance Information
  - g. Soil Data
  - h. Site Plan(s)

**G. [Public Hearing] Notice of Intent**, BSC Group of Worcester, Massachusetts, 337/K137E & L138E Transmission Line Right of Way which extends in a general southwesterly direction from the substation at 205 Washington Street (Assessor Map/Lot 49-34) toward the Tewksbury/Billerica Town boundary near Farwood Road (Assessor Map/Lot 7-72). DEP File # 305-1151.

New Documents

- 1) Application Package:
  - a. WPA Form 3
  - b. Project Narrative
  - c. USGS Site Locus Map
  - d. Environmental Resources Map
  - e. Site Photographs
  - f. Abutter Information
  - g. Submittal Forms for Town of Tewksbury
  - h. National Grid Best Management Practices

- H.** [Public Hearing] **Notice of Intent**, Vanasse Hangen Brustlin, Inc. (VHB) on behalf of the Town of Tewksbury Department of Public Works, Bayberry Lane, Assessor Map 71. DEP File # 305-1143. Continued from 10/20/2021 Conservation Commission meeting.

New Documents

1. Updated Application Package:
  - a. WPA Form 3 – Notice of Intent
  - b. NOI Wetland Fee Transmittal Form
  - c. Site Maps and Site Plans
  - d. Abutter Notification Information
  - e. Wildlife Habitat Evaluation
  - f. DEP Field Data Forms
  - g. Updated Site Plans (dated 12/23/2021)

Old Documents

1. Photo Log

**I. Wetland Protection Funds**

**Old Business**  
**New Business**  
**Administrators Report**  
**Adjournment**