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**Town of Wellesley
Wetlands Protection Committee
Regular Meeting Minutes
March 16th, 2023**

Meeting Location:
Online Meeting

Voted Approved (5/25/23)

Members Present:

Pete Jones (Acting Chair); John Adams, Secretary; Jim McLaren; Kevin Hanron; Doug Hersh, Associate; Eben Scanlon, Associate

Members Not Present:

Ellie McLane (Chair)

Staff Present: Julie Meyer, Wetlands Administrator

Panelists Present:

Laura Robert; Dave Hickey; George Saraceno; Heather Dorey; Sarah Kwatinetz; Tom Schutz; Dean Charter; Dave Klinch; Jennifer Schultz; David Tinory; Leigh A. Gilligan; Maria Pearl; Phillip Pearl; Kate Harrington; Mark Constant; Tim Power; Steven Ventresca; Natasha Winter; Jonathan Phillips; Linda Chow; Judith Barr

Attendees Present:

Nancy Stakun; Cynthia Westerman; Peter Watson; Jeanne Mayell; Martha Collins; Raina McManus; Jaden and Lara Crawford; Kayla Sheets; Marlene Allen; Jo Okun.

6:32 pm - Official Start

6:32 pm Administrative Business (Admin)

1. The Wetlands Administrator suggested that minutes from 02/02/23 be approved on 4/6.

2. The WPC discussed whether the remote meetings were extended to March 30, 2025.
3. The Wetlands Administrator announced that Deb Tackas has been hired to take minutes.
4. The WPC discussed the request to return a waiver fee for 1 Springdale Av that recently received an Order of Conditions and decided to bring that in at the beginning of the Open Meeting.

6:35 pm Active Matters (Admin)

1. **15 The Waterway** (project update) Heather Dorey from Kane Built, Inc. updated the Committee on recent tree protections related to concerns expressed by staff about a large white oak tree that is required to be protected under the Order of Conditions. Some small roots were reported by the Administrator during the most recent site visit to be exposed and subsoil is eroding from the excavation more so than during her prior inspection. H. Dorey confirmed that their consulting arborist had visited recently and provided soil stabilization recommendations that the contractors were to implement. The WPC agreed to plan a site visit on April 15th to understand current site conditions.
2. **715-721 Worcester St** (NOPV) - The Wetlands Administrator updated the WPC on a recent notice of violation related to reports of dumping that went to the owners of 721 Worcester Street of which there has been no response.
3. **21 Pine Ridge Rd** (not on agenda) – A letter was sent by staff requesting the owners contact the NRC office prior to any work because of construction fencing noticed around the parcel. The address is partly within the wetlands buffer zone and in riverfront area.
4. (not on the agenda) – The Wetlands Administrator noted that Massachusetts Department of Environmental Protection (MA-DEP) published a Public Notice and invited anyone interested to review and provide comment before March 28th related to the replacement of the state-wide General Permits for the Commonwealth of Massachusetts (“MA GPs”) with revised MA GPs. The US Army Corps of Engineers requested that MassDEP issue a Water Quality Certification for MA GPs in accordance with Section 401 of the federal Clean Water Act. The Notice is at MassDEP website.
5. (not on the agenda) - The WPC reviewed spring meeting dates.
6. (not on the agenda) - The WPC discussed recent brook maintenance performed by DPW. Vice Chair P. Jones asked G. Saraceno, Assistant Town Engineer, who was present on the meeting for 55 Rice Street about the status of the undersized Boulder Brook culvert under Route 9 near 900 Worcester Street owned by Mass Department of Transportation.

7:02 pm Public Meeting Open (Chair)

Public Voice (Chair)

Acting Chair P. Jones asked if there were members of the public present on the Zoom meeting that wished to speak to any items not on the agenda, to which there were none.

Acting Chair P. Jones read ground rules for the Zoom meeting including that all communications must be over the Zoom meeting and conducted through the Chair.

7:00 pm Public Hearings and Meetings (Committee)

Secretary J. Adams made a motion to delegate signatures of the Wetland Protection Committee (WPC) to the WA for this meeting. Jim McLaren seconded the motion and it was approved by a 4-0 vote.

1. **110 Worcester St** (*cont* NOI) - MA-DEP file # 324-1019; Applicant: J. Hyde;

Discussion: Steven Ventresca of Nitsch Engineering presented revisions showing 2:1 mitigation for alterations within Riverfront Area. Tree removals were reduced to just one tree to be removed.

Decision: The WPC asked the Administrator to draft a boiler plate Order of Conditions and to circulate to the WPC and the applicants prior to next meeting. The applicant agreed to be continued to the next meeting on April 6th.

Action Step: draft an Order of Conditions

2. **55 Rice St** (*cont* Request to Amend OOC) – MA-DEP file # 324-0998; Applicant: D. Hickey, Town of Wellesley; install four sports lighting & sound poles, modify grading. Work to occur within bordering land subject to flooding, buffer zone, and riverfront Area to Fuller Brook.

New Information: DPW Engineer Dave Hickey, Applicant, introduced co-Applicant School Committee Chair Linda Chow that shared the history of how the NRC and the School Committee have been discussing the Hunnewell Track and Field projects and the School Committee's efforts to mitigate impact to neighbors and the environment. The process resulted in minimized impact to the resource areas and neighborhood by limiting use of lights to school-use-only, 100 hours, and a scheduled lights off time of 9:30 p.m. Mr. Hickey presented a slide show of the proposed plan showing on the location of the four light poles and associated sound system, minor changes to the previously approved grading around the concession stand/restroom area to allow for better accessibility, and the addition of landscaping and screening to the building area. Mr. Hickey summarized the changes in both impervious area and fill from the 2015 Order of Conditions in contrast to the 2022 new OOC and the current Amendment. Next, wetlands consultant David Klinch of Epsilon Associates presented an overview of existing habitat conditions on the parcel and then the proposed work. He emphasized that there is no alteration of natural habitats. He stated that the extent of lighting is focused on the developed areas and that minimal areas of Fuller Brook and its undeveloped areas will experience any new illumination. D. Klinch stated that the project had made meaningful efforts to minimize impact, including by meeting the International Dark-Sky Association's Criteria for Community-Friendly Outdoor Sports Lighting.

Discussion: D. Hersh asked about the timing of the unique or critical habitat mapping and its relationship to any restoration. D. Klinch responded that the critical habitat mapping was referenced from the 2021 NHESP and GIS.

J. McLaren stated his understanding that the International Dark Sky Association application for approval did not include a site visit. L. Chow agreed, explaining that the phase 1 review and letter of compliance was for the design itself. J. McLaren stated further that true certification can only come after its built and then it is analyzed for certification. L. Chow agreed, that field verification of spillage and glare is the 2nd phase of the IDSA review. D. Hickey added that the two-part process allows for adjustments of the light set-up. J. McLaren stating a concern that once it is built it would be hard to take it down. L. Chow added that Musco stands behind their design and so if adjustments need to be made to meet standards they will make them.

J. McLaren asked for the color of the lights. D. Hickey answered that the light is in the white range, later sharing that it is 5700 kelvin.

K. Hanron asked for clarification about the units used to measure light in the modeling of the light spillage shown on the photometric plan. L. Chow answered that the units used in the model were foot-candles. D. Hickey added that the Dark Sky looks at 150-ft out from the oval of the light levels on the field and claims that the lighting design has been focused even tighter.

D. Hersh asked about the criteria of Community-Friendly Lighting Design and that he felt that it did not consider include ecological effects. Instead what we have is the consultant's best judgment that it won't have effects on stream invertebrates. We don't have studies to point to that say what is or how many days a year at what light intensity and color are effects not noticeable. It would be great to know that at levels of 2 to 3 lux effects to surrounding ecology are or are not observable, similarly, whether there are times of year or times of day that are more sensitive. Finally, he stated that it is important for the Committee to know a firm number of the light hours proposed, and asked what mechanism is present to prevent creep.

Applicant L. Chow answered that the limit is 15 night games and 6 night practices. The applicants' wetlands consultant reiterated the total number of lighting hours after darkness is between 50-70 hours. D. Klinch added that at 20 days per calendar year, lighting at 0.1 foot-candles or below represents no concern for wildlife.

WPC Secretary J. Adams summarized his understanding that 21 nights means it is really 100 hours. D. Klinch said that there is no documentation that 0.1 – 0.3 foot-candles represents a negative impact to wildlife habitat. L. Chow offered that the Athletic Director will be available to debrief at the end of the season to report out how many hours were actually lit. J. Adams stated that if the fields are lit beyond the permitted number of hours, the activity is in violation of the Order of Conditions. Discussion focused on how the MLP could meter the lights to ensure they stay in compliance. D. Hickey reminded the Committee that their position is that the light impact to habitat is low. He further presented that the amount of encroachment into darkness from the sports lighting represents 2.43% of the total hours of darkness in a year.

J. Adams offered that if the amendment gets approved, the proposed number of lit field hours is the agreement and what gets monitored, and if it goes over the project is in violation of the Order of Conditions, and this condition would be in perpetuity unless a future WPC overturns it.

D. Hickey wonders if environmental-based regulations are the right body to condition or monitor lights and wondered if a ZBA recorded site plan is a better avenue than an Order of Conditions. J. Meyer spoke to the OOC- the conditions in perpetuity are recorded with the deed and would be a reference, along with a site approval.

K. Hanron stated that he was comfortable with the claim that the impact of lights is minimal.

D. Klinch stated that based on his review of the literature, that the project will result in no significant impact.

J. McLaren said that he felt that a proposal of 80-ft light poles is better reviewed as a Notice of Intent.

E. Scanlon stated that based on the applicant's presentation, the effects seem minimal.

J. Adams presented his understanding of the challenge to make decisions. Is Dark Sky compliance indicating anything or not. A lot of the other performance standards have a significant amount of science behind them. Lights—do we have that same kind of science behind the lights and based on what Kevin said, at 2%, how can that be significant.

P. Jones said he tended to agree with John and noted that no one from Wellesley College had complained about the lights that the WPC approved here.

questioned the claim that there is no negative impact because science is only recently starting to study and make claims as to the impacts.

P. Jones stated that the applicants' expert regards the change as appropriate for an amendment.

J. Adams noted that mitigation is available for tree removal but less precedent is available to the WPC for mitigation for light impact, so the WPC needs to rely on an expert. D. Hersh offered that another expert says there is an impact. J. McLaren agreed with D. Hersh, noting that the International Dark Sky Association has over 2000 papers and a significant number of them focus on the effects of light on animals.

The WPC turned to hear Public Comment.

1. *Nancy Stakun* questioned why the we are listening to people who are going to profit from the project, we need to listen to people who are not going to profit. The changes are not minor. They are not the same, they do not reduce the impact to the area. As an example, she works weekends at the hospital and counts on getting to bed early. On Thanksgiving, with all doors and windows closed, the noise from the cars, the band, the cheering, the loudspeaker was enough to wake her 21-year-old son. When these games are going on I'd have to relocate to sleep. If I'd have to relocate, what's it going to do to the insects, birds, animals and the habitat, everything that you have to protect. There is no way to limit the games. And no committee can bind a future committee; no way to limit them. Would you let a private citizen do this? If you will not protect the wetlands why should we even have a committee? I'm so discouraged with leadership not following their own criteria. When the NRC needs to have a lawyer come in and say they don't have to follow their own criteria, there's a problem. I ask you please look at your own criteria and follow it and do your due diligence.
2. *Cynthia Westerman*, 2 Seaver Street, an abutter to the High School but not to the Track and Field, stated she appreciated the work of the WPC and what the WPC protects. I also appreciate that you are looking at this an amendment only. The project is approved and endorsed by the NRC, DPW, and Police Department. The people have spoken. The rectangular field are for sports for the fall - August 21-last game by Thanksgiving, spring is similar but reverse; days are getting longer. Don't lose sight that this is for the athletes of the high school only. There are hundreds of them and they work very hard and its part of the academic program in the Wellesley Public School System.
3. *Peter Watson*, 511 Washington Street, a retired teacher from Dana Hall School, said he had the same reservations of Jim and Doug regarding impacts of lights on wildlife and ecology. He noted how often that the words "minor," "minimal," "limited," and "small" were used in the discussion. He asks the WPC to think of terms of we can't keep nibbling away at the regulations and the provisions of protecting our wetlands and wildlife. Every nibble adds up, it is a death by a thousand cuts. Also mentioned the expansion of the Whole Foods parking lot on the other side of the wetland and the already existing huge light spill from the tennis courts.
4. *Jean Mayell*, 27 Seaver Street; asks the WPC denies the request to amend. The poles go far beyond minor changes. She said that no one has found a way to limit the games. She said that the real number of games is higher than 20 or 21, it's higher because you can't limit the number of games. This has been discussed for 2 years. I urge you not to approve something that you don't know what it will actually be; the demand is more like 100 games, all of the fall and spring.

As far as the IDA Dark Sky, that kind of lighting is not allowed in that kind of environment. She wants to know why the IDA approved lights in environmentally sensitive areas. The applicant's consultant is hired to get regulatory approval. The WPC needs to get another point of view to get a more detailed view of the impacts on an environmentally fragile area. Please read the February 24th letter signed by six former NRC Commissioners who are opposed to the project. She has lived on the wetlands for 30 years, part of the Charles River Watershed and has been restored with 5 million dollars of taxpayer money; it is not degraded; the work they've done has paid off. It used to be degraded, frogs, turtles, salamanders, blue herons, fish, and mink are present. A mink came up on her deck and a family of otters are living in the stadium pond. Finally, we know that flooding is escalating and it is concerning; the best solution to be resilient is a healthy wetland. This wetland is finally healthy. UVM found that because of the wetlands north of Middlebury that town was spared millions of dollars of damage from Hurricane Irene. You need to protect us. We live in the FEMA flood zone.

5. *Martha Collin*, 45 Rice Street, said please deny the request to amend the OOC. The most important thing is a democratic process. Be brave.
6. *Raina McManus* said that lighting the air space above Fuller Brook will remove breeding habitat from the smallest of species and passive recreation. The change proposed is not a minor change having the same or reduced impacts. The applicant shall have the burden of proof and she stated she did not believe the applicant provided it.
7. *Jaden Crawford*: 15 Rice St said, deny the amendment request. Go to Epsilon Associates.com where it says it specializes in getting regulatory approvals. There is not a scenario in which the consultant will not recommend not approving their clients' project. As you are asking them questions, it is like asking the judge asking just the defendant's lawyer. The WPC should be the expert or engaging experts or requiring the petitioner to provide an unbiased study, not a consulting report. It does not meet criteria for a study. Also, the area is characterized by the consultant as extensively altered area but the entirety of Fuller Brook meets that criteria and the Town spent five million dollars restoring it. Just because the area meets that criteria doesn't mean it doesn't deserve protection.
8. *Lara Crawford*: 15 Rice St, asked how deep do light poles go into the wetlands. What a year in the life of a wetlands at 55 Rice Street look like? It's surrounded by 10s of acres of at-risk animal corridors. The Epsilon consultant only looked for 2 days. The kids have always played here. Spring and fall are the times of year when creatures mate and reproduce. Skating Pond and Memorial Grove are already under pressure from commercial land and will have additional stress from the Track and Field. This area is too small to handle such a big installation. No one will even guarantee that clubs will not get their lights too. DRB denied the project. Nothing is funded yet. Skunks, turkeys, fox, and coyote all call this home. Down the path is beaver, turtles, rabbits provide food for apex. We are sky-gazing when the bats are out. Let their be dark night.
9. *Kayla Sheets*, 27 Atwood St: spoke to ask the WPC to deny the amendment. Impacts to neighborhood, trash, etc. No other such venues so close to residential areas and sensitive wildlife zones. We should do the same.
10. *Kiril Selverov*; 27 Atwood St; I would ask the WPC to deny this amendment request and ask the applicant to put forward an NOI. There is fierce opposition from neighbors. Impacts from sporting events on 1 species affects every species in an ecosystem; it's cascading, not negligible. There is no mechanism to even keep it at the level asked. The project started as one thing and has now extended; there is a virtual guarantee of pressure for more use of fields and there is nothing to guarantee stated limits. There is no commitment to a penalty fee if stated use is exceeded. The changes undo all the work

that's been done to increase the biodiversity of the park. The time to stop it is now not as a wait and see.

11. *Marlene Allen, 29 Rice St*, involved in town government for years; usually we only learn about projects when they affect us somehow; I abut Hunnewell Field. I'm disillusioned with what has happened to our government system. Would you allow a homeowner in a similar situation to wetlands to drill holes up to 17 deep and 3-5-deep in diameter/ Do you know the soil condition down there and does it matter to have an 80' high pole. What's your precedent; have you ever allowed drilling in wetlands? If this is allowed, how will you ever be able to deny other projects in wetlands. If allowing 80-ft lights is permitted less than 90 feet from private homes it will encourage more installations at more fields. This proposal originated with Youth Leagues not schools, and they expect to use the field also beyond the 20 nights and in fact proposed 100 nights to raise private funds and add amplified sound and traffic. The governance system is no longer giving equal protection for natural resources, homes, or neighbors since the NRC disregarded its own policies. There is no way to permanently limit the lights. This is being done for kids to play under lights not daylight.
12. Jo Okun,

132 Glen Road (cont NOI) - MADEP file # 324-1018; Applicant: Phillip & Maria Pearl; bring an installed sports court into compliance with the as built – work within Riverfront Area. Discussion included contributions from Judith Barr of the adjacent property owned by the Wellesley Community Land Trust. Tom Roseen of Goddard Consulting, LLC presented the plan for mitigation that includes a conservation restriction that is being worked out with the Land Trust. The representatives of both properties requested the WPC provide additional time to them to be able to work out the legal agreement.

Action Step: The Wetlands Administrator will draft an enforcement order that permits mitigation for the sports court to commence prior to working out the details of the conservation restriction and will circulate it to the WPC and the owners prior to the April 6th meeting where it is expected to be voted on to approve.

16 Ridge Hill Farm Rd (new COC) - MA-DEP file # 324-0910; Applicant: Mark Constant; Demolition of existing family home, tree removal, grading and landscaping related to the construction of a new residence. J. Adams made a motion to issue a complete certificate of compliance under the state and local bylaw. J. McLaren seconded the motion. The motion was approved by a 4-0 roll-call vote.

Action Step: issue the COC to the applicant.

Stevens St (new RDA) - Applicant J. Phillips; enclose 2 existing exterior side yard porches in Riverfront Area. J. Adams made a motion to make a negative determination of applicability for the proposed work. J. McLaren seconded the motion. The motion was approved by a 4-0 roll-call vote.

Action Step: issue the negative determination to the applicant.

16 State St (new Request to Extend OOC) - MA-DEP file # 324-0920; Applicant: Wellesley State Street, LLC – Natasha Winter presented the reason for the request to extend. Dane Robbins, the property manager made a further presentation on the recent history and reason the work had not been initiated. J. Adams made a motion extend the Order of Conditions for three years. J. McLaren seconded the motion. The motion was approved by a 4-0 roll-call vote.

Action Steps: issue the extension

1 Springdale Av (not on the agenda) K. Hanron made a motion to return the waiver fee to the applicant as they had requested by written means according to the regulations. J. Adams seconded the motion. The motion was approved by a 4-0 roll-call vote.

Action Step: return the wavier fee to the owner.

11:04 pm Adjournment (Chair):

J. Adams made a motion to adjourn the meeting. J. McLaren seconded the motion. The motion was approved by a 4-0 roll-call vote.