



*Wellesley*  
MASSACHUSETTS

888 Worcester Street, Suite 160  
Wellesley, MA 02482  
Phone: (781) 431-1019

**Town of Wellesley**  
**Wetlands Protection Committee (WPC)**  
**Regular Meeting Minutes**  
**April 27, 2023**

**Voted to Approve 05/25/2023**

**Members Present:** Ellie McLane, Chair; Peter Jones, Vice Chair; John Adams, Secretary; James McLaren; Kevin Hanron; Doug Hersh, Associate Member; Eben Scanlon, Associate Member

**Members Not Present:** None

**Staff Present:** Wetlands Administrator Julie Meyer

**Guests Present:** Jonatas Storck, Joyce Hastings, Scott Goddard, David Hickey, Linda Chow, Attorney Barry Fogel, Kate O'Donnell

**6:33 PM –Meeting Open (Chair)**

**Administrative Business (Admin)**

1. **Approve minutes March 2, 2023:** Mr. Adams motioned to approve the minutes from the 3/2/23 meeting. Mr. Jones seconded the motion; motion was approved by roll call vote, 5-0.
2. **Approve minutes March 16, 2023:** Mr. Adams motioned to approve the executive session minutes from the 3/2/23 meeting. Mr. Jones seconded; motion was approved by roll call vote, 5-0.

### **Active Matters**

- 1. 5 Dale Street** - Ms. Meyer confirmed she had issued an administrative approval for cutting of 4 dead and dying pines to be cut to snags, based off of photographs provided by DPW Parks and Tree who were concerned about public safety.
- 2. Brookside Road (Emergency Certificate was drafted by** Ms. Meyer for a few dead trees described by email and photographs sent by DPW Parks and Tree Division to be directly along the roadway. concern. DPW agreed to leave low snags.
- 3. 1 Sunnyside Avenue (new Notice of Violation)**

**Present:** Jonatas Storck; Joyce Hastings

**New Information/Discussion:** A restoration plan was submitted to the WPC in response to recent unpermitted discharge of sediment beyond the limit of work. Meyer described observations and stated that she directed the work to pause until the sediment was stabilized and removed from the BVW. Ms. Meyer stated that the contractor/owner and their representative provided a timely restoration plan detailing how to remove sediment from the BVW. She confirmed controls were established and hand removal of silt beyond the limit of work was in progress. Ms. Meyer expressed a concern for public safety and that letter of violation and a draft enforcement order was drafted and sent to the owners. Conditions that were violated were listed: regarding disturbance/alterations areas, erosion and sediment control, changes to the approved dewatering plan, stockpiling outside the limit of work and in the street.

Committee members agreed to issue a fine of \$300 for 6 violations and an additional \$300 for failing to stay in communication with the WPC and its Administrator as they had agreed, to total a fine of \$2100.

**Decision:** Mr. Jones motioned to issue a violation fee of \$2,100.00. Mr. McLaren seconded the motion. The motion was approved by roll call vote; 5-0.

**Action Steps:** Send a letter confirming the fine.

### **7:00 p.m. Open Public Meeting**

Ms. McLane read the remote open meeting guidelines. Mr. Jones motioned to delegate signatures of the Wetlands Protection Committee (WPC) to Wetlands Administrator Julie Meyer for this meeting. The motion was seconded by Mr. Jones. Mr. McLaren seconded the motion. The motion was approved by a roll call vote 5-0.

### **Public Voice for Items not on the Agenda**

None

### **Public Hearings and Meetings**

- 1. 2b Pickerel Road (Cont. NOI)** - MA-DEP file # 324-1020; Applicant: G. Yehaiv; after-the-fact landscape construction in Buffer Zone to Morses Pond. Continued at request of applicant to 5/27; request denied.

**Present:** Scott Goddard, Applicant's Representative

**New Information/Discussion:** Hearing was agreed to be continued by the applicant to the May 4, 2023 meeting. Committee Members commented that the patio could be removed, and the NOI discontinued, if the proposed deadline was not met.

**Action Steps:**

**Applicant:** provide an updated plan to the WPC

2. **1 Sunnyside Avenue (New EO)** - MADEP file # 324-1006; J. Storck; stabilize and restore BVW, Bank, and LUWW.

**Present:** Jonatas Storck, Contractor; Joyce Hastings, GLM Engineering

**New Information/Discussion:** A draft enforcement order (EO) and a restoration plan were reviewed. Ms. Hastings detailed the construction sequence and scope of work which included installation of fencing around the parameter of the excavation for safety and monitoring by GLM of all dewatering activities.

**Decision:** Committee Members agreed to take related vote at the next WPC meeting on May 4, 2023.

3. **55 Rice Street (Cont. Request to Amend OOC)** – MA-DEP file # 324-0998; Applicant: D. Hickey, Town of Wellesley; install four sports lights and a sound system and modify grading within bordering land subject to flooding, buffer zone, and riverfront area to Fuller Brook.

**Present:** Dave Hickey, Town Engineer; Linda Chow, Wellesley School Committee; Attorney Barry Fogel; David Klinch, Epsilon Associates.

Mr. Hickey introduced Attorney Barry Fogel, an environmental lawyer who was recommended by Epsilon to assist the applicant with understanding of the wetland bylaws and performance standards that relate to this project.

Mr. Klinch reviewed his letter dated April 3. He highlighted his endorsement for a third-party environmental consultant. He reiterated that that his letter was based on 120 hours of light on the resource areas and that lighting is considered a nonsignificant impact to wildlife habitat. Ms. Chow confirmed that the School Committee can hire outside counsel and that they hired Attorney Fogel on April 10. Attorney Fogel stated that the amendment was driven by the approval from the Natural Resources Commission (NRC) that approved the usage of lights at Hunnewell Track & Field. He stressed that the NRC controls and manages the use of the fields. Mr. Fogel recommended that WPC consider the “fixed parameters,” derived from the NRC decisions from July, 2022 that specify how many hours of light and who would control that light. He clarified to the WPC that any desired alterations would go through the School Committee and NRC, and come back to the Committee for their review and approval.

Mr. Hanron stated that the words “light” or “sound” are never mentioned within the existing state or bylaw regulations, and expressed concerns regarding what the Committee is charged to do while acknowledging that lighting is a “big deal.” Mr. McLaren commented that WPC is charged with protecting the wetlands. Mr. Hersh stated if the WPC was not to consider lighting because it was not included in bylaw/regulation language, that would be contrary to the mission of WPC as excessive lighting is harmful to wetlands. He added that WPC is charged with protecting habitat as well, and the Committee should determine how much lighting is too much.

Mr. Hanron read from the Wetlands Bylaw "The Conservation Commission (NRC) has delegated to the Wetlands Protection Committee the power and authority to administer and enforce the provisions of the Massachusetts Wetlands Protection Act and the Wellesley Protection Bylaw." He noted there was nothing in that statement which would indicate that the Committee Members are environmental activists. Ms. McLane commented that the mission of WPC does not address every impact, interests and values.

Mr. Jones mentioned that in the bylaw regulations at Section 2.5 it mentions light regimes and habitat quality. He further contributed that the regulations define extensionally altered areas and that within these, it is presumed that important wildlife habitat functions have been effectively eliminated and are not significant to the preservation and protection of wildlife habitat." He had that grass and artificial turf is not considered wildlife habitats. Ms. McLane noted that the Bylaw mentioned also covers cumulative impacts.

Ms. McLane noted that she also had concerns about the NRC environmental consultant who did not have experience in Massachusetts and wetland regulations. Mr. Jones was in agreement. Mr. Scanlon acknowledged that aspect, and the WPC wanted to understand the amount of light which would constitute "significant impact," and what amount would be considered with light use overage and time.

**Decision:** Mr. Jones made a motion to accept BSC Group to be the third-party consultant for the WPC. Mr. Adams seconded the motion; the motion was approved by a 5-0 roll call vote.

#### **Discussion Resumed:**

Attorney Fogel asked for a copy of the completed WPC peer review report to be shared with the applicants before WPC deliberates on the matter on May 25. Ms. Meyer confirmed that customarily the week before the scheduled meeting is the time that comments are submitted by the applicants. Ms. McLane commented that if the applicant (the School Committee) wishes a continuance could be considered, and extend the timing of the May 25<sup>th</sup> meeting date.

Mr. Fogel noted that the state Wetlands Protection Act dictates that alterations to any Land Under Waterbody less than 5,000 square feet is deemed to not to have impairment on wildlife habitat. He stated that the areas under consideration were Bank and BVW and alterations with respect to their relevant performance standards.

The Committee recessed for five minutes.

#### Public Comments

Upon meeting being resumed, Mr. McLaren noted many resident letters are being continually being submitted to WPC (pro and con) and are available to the public on the WPC website. Ms. Meyer stated that the letters were posted to Applications Under Review link at the WPC web page (currently 105 submissions).

*Jay Prosnick of 11 Tappan Road* recognized the thoughtful approach and was looking forward to the consultant's report.

*Jim Roberti of 235 Weston Road* echoed Dr. Prosnick's comments and mentioned that BSC had extensive experience in MA, and was looking forward to the peer review, and keeping the process moving.

*Maureen Freberger* applauded the WPC thoughtfulness and points made by Mr. Hersh and Mr. McLaren.

*Raina McManus of 2 Mulherin Lane* stated that light and noise are not specifically mentioned in the Bylaw, but pollutants are included; light and noise are pollutants. She stated that the Wellesley Bylaws indicate protections should be recognized in areas where such pollutants have a significant effect on interests and values – habitat is 24 hours per day, and nocturnal habitat is lost under light even with moon events. She stressed that the lands in question have been restored. She cited 310 CMR promotes additional measures, noting that the fields have been altered and then restored and such lighting and noise proposal will affect the restoration of habitat, with passive recreation being affected also. Ms. McManus mentioned the significance of the proposed lighting in comparison with the existing lighting at Whole Foods. She stressed that 100 hours of light reflected the basis for the Epsilon report, not 120 hours. She stated that the proposal should be considered as an NOI.

*Kristy Kovacks of 20 Clifford Street* presented pictures of the current wildlife habitat at the site at dusk and dawn, stressing that the cumulative effects had to be seriously considered/analyzed.

*Chris Spagnuolo of 14 Paine Street* noted that other Hunnewell fields are lit for many hours and walks his dogs and sees many animals.

*Quintin Prideaux of 75 Emerson Rd* stressed that night time lighting has a very negative effect on wetlands and the birds, reptiles, mammals. He emphasized the fact that violations get imposed, which is reflective of environmental degradation, and maximum use of lighting is not clear. Mr. Prideaux stated that this project can wait until it is fully vetted with expert input.

*Jeanne Mayell of 27 Seaver Street* thanked the Committee for getting a per reviewer on board. Does not wish to see this get rushed through, but would want the study to be done right. She stressed that WPC adheres to related Bylaws, and to protect the habitat per scientific fact.

*Quintin Prideaux of 75 Emerson Rd* returned to speak. He stated violations get imposed and this is reflective of environmental degradation. School Committee mitigation is good enough, and no maximum of lighting is clear. School can survive long enough as they have for 85 years of its construction.

*Wendy Beck of 26 Oakland Circle* stated that such proposed lighting and noise is a substantial change to the site, and the process should not be rushed. She emphasized there was no way to fence in sound and light.

#### **4. 21 Colburn Road – new NOI**

Present: Kate O'Donnell of EcoTec, Inc.

Ms. O'Donnell presented the site plan with patio, paved driveway and addition, reflecting increase in impervious area, greater than 5%. Ms. McLane encouraged use of pervious pavers in the patio. Discussion took place regarding mitigation for removal of trees which have been removed some time ago, with additional native plantings to be added to the plan. Ms. O'Donnell suggested adding additional Oak Trees to the planting plan.

**Decision:** Ms. McLane stated a WPC draft plan will be presented at the May 25<sup>th</sup> WPC meeting.

**5. 12 Sabrina Road (New COC) & 12 Sabrina Road (New NOI)**

Ms. Meyer confirmed that the applicants have agreed to continue to the next WPC meeting on May 4.

**Decision:** Continue to May 4<sup>th</sup>.

**(Not on the agenda) – 66 Walnut Street**

Ms. Meyer updated the WPC on a notice of an upcoming exempt minor activity under the bylaw to perform soil sampling by hand within Riverfront and Buffer Zone. Contractors working for Boston Gas Company stated to Ms. Meyer by email that there was no tree cutting or disturbance to vegetation.

**Action Step:**

Admin: Ms. Meyer will follow up with the Boston Gas Company representative regarding status and timeline of work.

**9:24 p.m.**

**Adjournment**

Mr. Jones motioned to adjourn the WPC meeting. Mr. Adams seconded the motion. The motion was approved by roll call vote, 5-0. There being no further business, the meeting ended at 9:24 PM.