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CITY OF PITTSFIELD

PITTSFIELD CONSERVATION COMMISSION, CITY HALL, 70 ALLEN STREET, PITTSFIELD, MASSACHUSETTS 01201
413-499-9359

Special instructions for participating in the October 8, 2020 meeting of the Pittsfield Conservation Commission:

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A, Section 18, and state and federal orders and guidance imposing strict limits on the number of people that may gather in one place, this hearing of the Pittsfield Conservation Commission will be conducted exclusively via remote participation. For this hearing, members of the public who wish to watch the meeting may do so on PCTV. Public comment may be made prior to the meeting by calling 413-499-9359 or by emailing rvanderkar@cityofpittsfield.org. Live public access via telephone will also be provided through the dial-in information listed below. In the event that we are unable to do so, we will post an audio or video recording, transcript, or other comprehensive record on the City's website as soon as possible after the meeting.

Dial: 312 626 6799

Enter the Meeting ID: 984 4954 6761 and press #

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MINUTES CONSERVATION COMMISSION Wetlands Protection Act Public Hearing Remote Meeting Via Zoom Thursday, October 8, 2020 at 6pm

Chair Conant called the meeting to order at 6:00 p.m. Those in attendance are noted below.

Chair Conant informed all in attendance that in accordance with MGL Chapter 30A, Section 20, voices are being recorded and pictures are being taken of all in attendance.

1. Roll Call

Members Present:

James Conant, Chair
Thomas Sakshaug, Vice Chair
Franz Forster
Jonathan Lothrop
Elizabeth Bocchino
Nick Caccamo
Stephanie Dick

Members Not Present:

A quorum was present.

Also Present:

Robert Van Der Kar, Conservation Agent

Ted Kozlowski, Clerk

2. New Business:

- A. Continued: Mass DEP File #263-1144: Notice of Intent application for the replacement of a 48-inch diameter concrete culvert with a three-sided concrete box culvert at May Brook on property located on West Street. Such actions are proposed to occur within Inland Bank, Bordering Vegetated Wetlands, Land Under Waterways, Bordering Land Subject to Flooding, and Riverfront Area associated with May Brook. The applicant is The City of Pittsfield.

Victoria Houle, Fuss & O'Neill came forward to speak on the application. There is an existing culvert on West St. They are proposing to replace the culvert with an open sided culvert. They have responded to the comments from the agent and DEP and have submitted updated plans, mainly surrounding dewatering and the handling of water during construction. The new culver would have a span of 18ft and a rise of 4.5ft. They had done another site visit and determined there are no BVWs adjacent the brook and have updated their impact number sheets.

Mr. Van Der Kar gave his review of the application. The project is much better after responding to comments. The commission can issue an Order of Conditions.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to issue Order of Conditions 1-34 with the special conditions noted below; it was seconded by Ms. Bocchino and was approved unanimously by a Roll Call vote.

- SC 31. The work is to be performed during optimal periods of dryness in between the dates of July 1 and October 31.
- SC#32. The Conservation Commission is to be notified prior to: the installation of erosion control barriers, installation of water management structures, excavation of footings and for the low elevation gravel borrow, and the moment when water management structures are removed and flows restored back through the stream channel.
- SC #33. All proposed grades located above the proposed conditions estimated mean annual high water mark are to be seeded with a native wildflower mix. Future maintenance of these areas is limited to a once per year mowing, or as amended in a subsequent permit filing. Maintenance for emergency purposes is allowed through the issuance of a WPA Emergency Certification Form. This condition shall remain in perpetuity unless otherwise amended.
- SC #34. The operations and maintenance schedules for rain gardens outlined in the 2008 Massachusetts Stormwater Handbook are to be strictly followed.

- B. Continued: Mass DEP File #263-1146: Notice of Intent application for the construction of a single-family home on property located at 301 Francis Street (Map H10, Block 27, Lot 3).

Such actions are proposed to occur within Bordering Land Subject to Flooding. The applicant is Dominick Sacco.

Brent White, White Engineering came forward to speak on the application. They have submitted a request for a continuance. They are repositioning the garage on the site and are updating their floodplain volumes and hope to have them by the next meeting.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to continue the item to the October 29, 2020 meeting; it was seconded by Ms. Bocchino and was approved unanimously by a Roll Call vote.

- C. Continued: Mass DEP File #263-1147: Notice of Intent application for the removal and replacement of vegetation and rip rap from the shoreline, relocation of a dock, construction of a sand area and boathouse, and drainage improvements on property located at 53 Tor Court (Map E9, Block 1, Lot 16). Such actions are proposed to occur within Inland Bank and Bordering Land Subject to Flooding associated with Onota Lake. The applicant is the Susan Kirchner Nominee Trust.

Brent White, White Engineering came forward to speak on the application. The project involves repositioning the dock. The new location meets the Chapter 91 requirements. They also propose the removal of the shoreline using the existing rip rap already on site and removal of invasive species. There's an existing boathouse on which they are proposing an addition for storage. They have drainage and grading improvements with a rain garden to receive any overflow. They plan on stone infiltration for the boathouse water management. A wildlife habitat study is not required. The conditions will be the same condition for shade, burrowing and access to the waterfront. This will be an overall improvement.

Mr. Van Der Kar gave his review of the application. The only part the agent is hung up on is the Wildlife Habitat component. This is not a limited project; part of that for inland bank is the habitat component. That part needs to be accomplished. He recommends continuing the item until the survey has been performed.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to continue the item to the October 29, 2020 meeting; it was seconded by Ms. Bocchino and was approved unanimously by a Roll Call vote.

- D. Continued: Mass DEP File #263-1148: Notice of Intent application for the removal and replacement of a retaining wall and installation of a seasonal dock along Onota Lake on property located at 16 Bakers Island Road (Map F13, Block 1, Lot 5). Such actions are proposed to occur within Inland Bank, Bordering Land Subject to Flooding, and Land Under Waterbodies associated with Onota Lake. The applicant is Joseph Dow.

James Scalise, SK Design Group came forward to speak on the application. He reviewed the existing conditions. All resource areas have been identified. The project will remove one of the docks, reducing impact, replace the existing wall and create planted areas along the wall. The project results in a reduction in impacts. He reviewed the plans. They will get a Chapter 91 license for the wall and the dock. One issue is the existing dock spans over some BVW with a path cut through. They propose creating a new access bypassing the BVW; the BVW will be reseeded. He noted that the rip rap materials will be removed in the near future. They are clear that it is not to be installed.

Chair Conant noted that he's been to the property and saw a pile of stone within the buffer zone with work ongoing. The agent had informed the applicant not to do any work in the buffer zone. He is

disappointed that the applicant did not follow through on what is required. He recommends continuing the item until this issue is cleared up. If it is not removed, they will issue an Enforcement Order against Mr. Dow.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to continue the item to the October 29, 2020 meeting; it was seconded by Ms. Bocchino and was approved unanimously by a Roll Call vote.

- E. Mass DEP File #263-1149 Notice of Intent application for lake bank stabilization and related site work on property located at 154 Blythewood Drive (Map D11, Block 2, Lot 9). Such actions are proposed to occur within the Inland Bank, Land Under Waterbodies, and Bordering Land Subject to Flooding associated with Onota Lake. The applicant is Eugene Trainor.

Jackson Alberti, Foresight Land Services came forward to speak on the application. There is an existing single family home. The existing lake banks are badly eroded and creates a dangerous environment. They plan on stabilizing the area, 100 linear feet, 620sqft. They propose 26 shrub plantings and a native seed mix to improve the existing conditions. Overall, the project will improve the bank for native animals and plant species.

Mr. Caccamo asked about the erosion controls. He reviewed the details of the proposed product for stabilization. It is specifically made to be vegetated. There is no specific maintenance plan. The product lifespan should be 50-75 years. The only upkeep would be monitoring the vegetation. It should be one and done.

Chair Conant asked Mr. Alberti to send the commission the details on the product.

Mr. Van Der Kar gave his review of the application. He is a big fan of the vegetation growth material. He feels it's very adequate for the purposes. He noted that the plan does not show the vegetation going down to the shore. There is a completely stone shoreline in this project. He felt it matters to the wildlife habitat component. There is no way around showing compliance with the 10.60 rules. He recommended a continuance.

Ms. Bocchino asked about if they were using the Erosion Control or the Slope Stabilization version of the product; it looks like the difference is the depth of the anchors and spacing. They are very similar products; they will be using the Erosion Control product.

Mr. Van Der Kar asked if it were all synthetic or partly organic. He believes it is completely synthetic, but will confirm.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to continue the item to the October 29, 2020; it was seconded by Ms. Bocchino and was approved unanimously by a Roll Call vote.

- F. Mass DEP File #263-1151: Notice of Intent application for the construction of a garage addition on property located at 104 Ridge Avenue (Map G16, Block 2, Lot 3). Such actions are proposed to occur within buffer zone associated with Inland Bank (Pontoosuc Lake). The applicant is Gary Mohr.

Brent White, White Engineering came forward to speak on the application. They are proposing a garage addition to the existing home. There is currently a stone driveway. The work involves creating a

garage for cars, an addition above it to expand the home's master suite and additional boat storage. He reviewed the plans submitted. They propose a stone infiltration trench and a rain garden. There may be some modifications to the roof line.

Mr. Van Der Kar gave his review of the application. This is a buffer zone only project. The east side of the building is pretty steep; the runoff might be a concern.

Chair Conant noted the property already has an Order of Conditions on it.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to issue Order of Conditions 1-32; it was seconded by Ms. Bocchino and was approved unanimously by a Roll Call vote.

- SC #31. The operations and maintenance schedules for infiltration trenches and rain gardens outlined in the 2008 Massachusetts Stormwater Handbook are to be strictly followed.
- SC #32. Work can commence only following the issuance of a complete Certificate of Compliance for Mass DEP File #263-1118.

G. DEP File #263-1150: Notice of Intent application for the installation of two above ground fuel storage tanks and related work on property located at 36 Industrial Drive (Map H6, Block 5, Lot 215). Such actions are proposed to occur within Bordering Land Subject to Flooding. The applicant is Lipton Energy Corp.

James Scalise, SK Design Group came forward to speak on the application. There was a fair amount of fuel storage on this property historically. They propose to change the storage to propane storage. There are depressions that were used to capture any fuel spills. They propose to fill in the depressions with clean gravel and install 2 tanks that will be cradled above the floodplain. The only floodplain work would be the legs that hold up the tanks. There is about 3cuyd in the plain that is easily offset by the historic use of the property. FEMA maps are based on the 1987 condition and the lot had those depressions there since the '50s. There is already a chain link fence and berm. There will be no tree removal.

Mr. Sakshaug asked about the two depressions. They are ringed by cement concrete to hold any potential oil spill. There is no need for them now as they are now storing propane. They plan on perforate the concrete slabs and fill them level to existing grade. Mr. Sakshaug's concern is that it seems like they're filling in a floodplain. He suggested removing some of the berm to lowering the elevation and filling to that level. Mr. Scalise noted there is a stone filter strip but no vegetation between that and the BVW. He could relocate the filter strip to the east, creating a 5-10ft buffer area that could be lowered. That would also increase the vegetated buffer zone.

Mr. Van Der Kar gave his review of the application. He agreed with Mr. Sakshaug's suggestion. The resource delineations were great and he appreciated the effort.

Mr. Scalise asked that a condition be added to an Order of Conditions, given the changing weather. He promises to get the agent an updated plan by next week.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to issue an Order of Conditions; it was seconded by Ms. Bocchino and was approved unanimously by a Roll Call vote.

H. DEP File #263-1152: Notice of Intent application for the annual winter drawdown of Onota Lake. Such actions are proposed to occur within the Land Under Waterbody associated with Onota Lake. The applicant is the City of Pittsfield.

Alex Patterson, ESS Group came forward to speak on the application. He reviewed a brief history of the Onota Lake winter drawdown. The commission approved an OOC in 2004, including options for drawdowns of 3ft up to 5.5-6ft drawdown during the winter. The city has been working with DEP for the best course of action. The submitted plan is based on that consultation. The purpose is to manage invasive plant species and to protect the shoreline from ice damage. The city is proposing a 2ft drawdown, which is less than what is recommended for a generic lake drawdown. A 2ft drawdown would expose about 48 acres, 7.5% of the surface area of the bottom, reducing the volume up to 1200 acreft. It would begin on or after October 15 and be complete by December 1. Refill would be finished by April 1; if conditions change, the refill would be finished by April. Those are parameters determined during the consultation with DEP. They have received a preliminary determination from Natural Heritage; the work would not affect the habitat.

Michael Riordan, LOPA came forward to speak on the application. LOPA supports the drawdown plan. They would like to go on record favoring a 3ft drawdown. Long experience and science support that. They have hired Dr. Ken Wagner to comment on the NOI.

Dr. Ken Wagner came forward to speak on the application. LOPA has not been included in the discussion. Lake management is a 3-legged stool and is only here to discuss the science of the NOI. He prepared a document that was submitted to the city, the DEP and ESS. Some of the guidance needs adjustment. There are 3 parts to a drawdown: the depth, the drawdown process and the refill process. The GER guidance of 3ft has been upheld. DEP and Natural Heritage have both signed off on it in the past. There's no evidence why Onota should be an exception. 2ft represent a lot less control of Eurasian Milfoil than 3ft. There's been no analysis. The start date is a lot less important than the water temperature. The date should be temperature dependent. The rate of change has been upheld. The November 30th end date is irrelevant to the ecology. There's no reason they have to stop drawing down if they haven't reached the target by November 30. It's a good idea; December is the coldest month with the least snowfall and the most impact on the milfoil. But if a storm occurred on November 30, causing the water level to rise, there's no harm in extending the drawdown into December. Putting a cap on the date is foolish. The flow rate has not been supported by the data over the last 16 years; it has no ecological basis. He looked at the flow records of Onota Lake and doesn't see how the 41.4 CFS is going to let you get even a 2ft drawdown. Those numbers need to be reviewed. The date of April 1 is absolutely irrelevant. You cannot control the rate of fill. You need a start date for refill, not an end date. The main factor is temperature. Getting the refill by April 1 is not important. Ice out is going to happen between early March and late April; having a single calendar date won't work if there's still ice on the lake. Refill occurs as nature allows. No compliance date for refill should be set because no one can control it.

He was also concerned about possible screening of the outlet to prevent fish passage. He's not aware of any data on fish loss. No drawdown he knows of employs screens. The risk of clogging is very high.

Daniel Miraglia, 66 Ontario came forward to speak on the application. He represents the Berkshire County League of Sportsmen. They oppose the drawdown as proposed. They don't feel it meets the criteria for an ecological restoration.

Chair Conant noted they have not received the determination from NHSP; he called for a continuance.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to continue the item to the October 29, 2020 meeting; it was seconded by Ms. Bocchino and was approved unanimously by a Roll Call vote.

- I. File #20-26 - Request for Determination of Applicability for the replacement of three (3) high pressure steam line stanchion support poles, and associated work on property off Hubbard Ave (Map M14, Block 1, Lot 3). Such activities are proposed to occur within Riverfront Area and Bordering Land Subject to Flooding. The applicant is Crane Co.

No one came forward to speak on the application.

Mr. Van Der Kar gave his review of the application. It is straightforward. They are replacing poles that hold stanchions. The work is needed and the commission can issue a Negative Determination.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to issue a Negative 2 & 3 Determination with the special conditions noted below; it was seconded by Ms. Bocchino and was approved unanimously by a Roll Call vote.

- No new access roads are to be created as a result of the repair work
- Erosion control barriers are to be installed around areas where soil is exposed

- J. File #20-27 - Request for Determination of Applicability for installation of high-speed internet conduit on property at 555 Hubbard Avenue (Map L14, Block 3, Lots 105, 106, 107, 108, 109). Such activities are proposed to occur within Riverfront Area and Bordering Land Subject to Flooding. The applicant is Charter Communication.

Mr. Van Der Kar gave his review of the application. No real changes to above grade conditions. He suggested erosion controls and loam seeding and mulch.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to issue a Negative 2 & 3 Determination with the special conditions noted below; it was seconded by Ms. Bocchino and was approved unanimously by a Roll Call vote.

- Erosion control barriers are to be installed in all areas where there are excavations resulting in exposed soils.
- All areas of exposed soils are to be loamed, seeded, and mulched.
- The rain garden on the neighboring property is to be avoided or restored following work.

- K. File #20-28 - Request for Determination of Applicability for the addition of sand onto an existing boat launch on property at 976 West Street (Map D9, Block 3, Lot 12). Such activities are proposed to occur within Inland Bank (Onota Lake). The applicant is 976 West St., LLC.

Mr. Van Der Kar gave his review of the application. There's an existing beach and has lost sand over time; they are just refilling.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to issue a Negative 2 & 3 Determination with the special conditions noted below; it was seconded by Ms. Bocchino and was approved unanimously by a Roll Call vote.

- Avoid placing sand below elevation 1079.0', or the normal summer pool elevation of Onota Lake

L. File #20-29 - Request for Determination of Applicability for the construction of a gravel driveway, the installation of electrical utility, and other related work on property located at 28 Knox Road (Map E2, Block 1, Lot 3). Such activities are proposed to occur within buffer zone to Bordering Vegetated Wetlands. The applicant is Michael Schilling.

Mr. Van Der Kar gave his review of the application. This is an after the fact permit for the driveway. The applicant was unaware of the wetlands across the road. The commission can issue a Negative Determination.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to issue a Negative 3 Determination; it was seconded by Ms. Bocchino and was approved unanimously by a Roll Call vote.

- The applicant is required to submit a MESA application to the Mass NHESP for work in areas mapped as Priority Habitat of Rare Species.

M. File #20-30 - Request for Determination of Applicability for removal of a tree on property located at 10 Waubeek Road (Map G16, Block 1, Lot 22). Such activities are proposed to occur with buffer zone to Inland Bank. The applicant is Tim Dolan.

Mr. Van Der Kar gave his review of the application. This is the removal of a dead tree. It is on its way to come down on its own. The commission can issue a Negative Determination.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to issue a Negative Determination with the special conditions noted below; it was seconded by Ms. Bocchino and was approved unanimously by a Roll Call vote.

- The tree is to be saw cut flush to grade.

N. Mass DEP File #263-1102: Request for Certificate of Compliance for property located at 104 Ridge Avenue (Map G16, Block 2, Lot 3). The request is being made by Gary Mohr.

Mr. Van Der Kar gave his review of the application. This project came out quite well. It is in compliance and the Commission can issue a Complete COC.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to issue a Complete Certificate of Compliance; it was seconded by Ms. Bocchino and was approved unanimously by a Roll Call vote.

O. Mass DEP File #263-1118: Request for Certificate of Compliance for property located at 104 Ridge Avenue (Map G16, Block 2, Lot 3). The request is being made by Gary Mohr.

Mr. Van Der Kar gave his review of the application. This project had a mitigation component that consisted of live stakes along the inland bank and some plantings. Neither of those happened. The commission may want to continue the item until they see a plan showing the work being done.

Mr. White noted they have a plan to get the items taken care of.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to continue the item to the October 29, 2020; it was seconded by Ms. Bocchino and was approved unanimously by a Roll Call vote.

3. Other Business:

A. Minutes from the September 16, 2020 meeting.

Mr. Sakshaug made a motion to accept the minutes as presented; it was seconded by Ms. Bocchino and was approved by a Roll Call vote. Ms. Dick abstained.

B. Acceptance of FY20 Annual Report

Seeing no further debate or discussion, Mr. Sakshaug made a motion to accept; it was seconded by Ms. Bocchino and was approved unanimously by a Roll Call vote.

4. Adjournment:

Mr. Sakshaug made a motion to adjourn at 7:30pm; it was seconded by Ms. Bocchino and was approved unanimously.

Submitted by Ted Kozlowski, Clerk

