

## Hubbardston Conservation Commission Minutes

December 9, 2014

Library Basement

Meeting called to order at 6:09p.m. in the Hubbardston Library Conference Room located in the Library Basement.

Present: Steve Mossey, Larry Therrien, Tom Larson, Tony Coppola

Guests: David Thomas, William Murray, Danielle Primini, Vincent Ritchie, Brad Wheatley

### **First Order of Business:**

Mr. Murray from Places, Inc, came in at the request of the Commission to discuss some questions regarding Seaboard Solar and what some of the Commission's options were as to the Enforcement Orders, fine, etc. Mr. Murray did a site walk of 91 Williamsville Rd on November 21<sup>st</sup>. It was then Mr. Murray noticed over cutting of the trees. On November 24<sup>th</sup>, Mr. Coppola joined him for a site visit. Mr. Murray showed a plan sent by Burton Engineering, Seaboard's Engineering Company, which shows the area that was over cut. There was approval to clean up the periphery of the site which the trees were flagged, so they did not become a future hazard. The area that was approved was approximately 3200 square feet. Seaboard did cut those trees but then clear cut an area of about 26,000 square feet. Mr. Murray stated that there are three basic violations. First the Order of Conditions was not filed until today at 1:30p.m. We have not received a hard copy which we need to fulfill their conditions. Second, there are approximately 26,000 sq. feet which have been clear cut. The allowable estimated clear cut was 3, 200 square feet. There is a 5,000 square foot threshold. Third, the Town's general conservation wetlands bylaws, state that the destruction of vegetation and cutting of wetland trees is an alteration. Mr. Murray stated that there is a whole list of actions the Conservation Commission can take. Mr. Murray stated that we can do all, some, or none of what he is suggesting. Mr. Murray stated that they need to show proof of filing of the Order of Conditions. Second, issue an Enforcement Order. The Enforcement order is really two parts. The first part states what you order them to do and the second is Seaboard comes back with a follow up and let us know what was done. The Conservation Commission could require Seaboard Solar to file an amended Order of Conditions because they crossed the threshold. The Enforcement Orders should state that Seaboard Solar will put silt fence up for erosion control. The Enforcement Order allows the Conservation Commission to set deadlines as to when things must get done. Mr. Murray states that the restoration plan that Seaboard Solar submitted is insufficient. Mr. Murray states that he would like to see Seaboard Solar have a bigger diversity of plants and not just the three types of low bushes that Seaboard has offered to plant. Mr. Murray said that the Conservation Commission has a ton of discretion as to what

the Board considers a violation. Mr. Murray then discussed some of the fines that could possibly be issued. Seaboard Solar is responsible to pay our consultant costs. Mr. Murray received a copy of the plan from Bertin Engineering, which is Seaboard Solar's Engineer, stating that the site is in compliance yet, on Bertin's plan it shows where the wetlands were cut. This means that the Conservation Commission could go after Bertin Engineering as well. Tony Coppola spoke and said that when he walked with Mr. Murray at the site, he immediately said the area has been clear cut. Mr. David Thomas respectfully disagreed with that statement. Mr. Coppola and Mr. Murray stood by their observation of the area having being clear cut. Chairman Mossey stated that even if it isn't 26,000 sq. feet that has been cut, it is still substantial and it still crosses the 5,000 sq. foot threshold. The amount of clear cutting is substantial.

Mr. Vin Ritchie from the Planning Board was at the meeting and let the Commission know what has transpired through the Planning Board. Seaboard Solar came to the Planning Board with the proposal to cut some trees back in September of 2014. The Planning Board decided that the Request for Modification is not significant enough for a public hearing and second, the plan they proposed for the cutting was for the trees that were leaning and they cut the trees on the Southern side and after multiple discussion with the abutters, the abutters were not opposed to their plan. The Planning Board did not have Public Hearing and was surprised at the amount of the cutting which was done. Mr. Coppola stated that he felt that it wasn't necessarily for profit that the trees were cut, but it looked more to be for ease of cutting. Mr. Wheatley spoke and said that a lot of what was done there was done by the machine which just damaged when the cutting machine went there. Mr. Thomas stated that the plans were available to the company that cut the trees.

Chairman Mossey spoke and said that the Order of Conditions not being filed could just be a clerical error. Mr. Mossey does want proof that it was filed, but said that it could have just been an oversight. Mr. Mossey stated that we definitely need Enforcement Orders which the Commission will seek Mr. Murray's counsel on that. Mr. Murray did state again that there needs to be more diversity planted. Chairman Mossey stated that DEP has been notified and would like to walk the site and several members of the Conservation Commission would like to go as well. Mr. Mossey asked what the Board thought about Seaboard filing a Notice of Intent. Mr. Larson stated that he thought we should look at an Amended Notice of Intent. Mr. Murray stated that if we do the restoration plan we will still need to do a public hearing. Mr. Thomas stated that Seaboard Solar is prepared to put silt fence and hay bales back up. Mr. Murray stated that that would be good but the Conservation Commission needs to grant them permission.

**Motion: Tom Larson**

**Second: Tony Coppola**

**Motion made to allow Seaboard Solar to put hay bales and silt fence up as long as they send the Commission the plan which shows us where they are putting them. All in favor. Motion carries.**

Chairman Mossey stated that we need to work on the Enforcement Orders with Mr. Murray. Chairman Mossey wants the restoration plan brought to the February meeting. Mr. Murray asked permission to talk with Seaboard Solar's consultants. Chairman Mosey gave Mr. Murray permission. Chairman Mossey asked the Commission what they thought about fines. Mr. Coppola stated that he felt they are looking to get it right for the Town and the Commission but was not looking to go overboard with the fines. Mr. Thomas stated that he would like to apologize. Mr. Thomas said they've made some mistakes and takes responsibility for it and they just want to make it right. The Conservation Commission thanked Seaboard Solar for coming in. Chairman Mossey stated that Mr. Murray will get in touch with them. Mr. Murray asked how the Commission would like to proceed with the Engineer. Mr. Murray stated that the Engineer signed off and said Seaboard Solar was in compliance and it obviously is not. Mr. Coppola stated that he would like to see a letter go out to the Engineer from Mr. Murray's office stating what our findings are and not go after him legally. Chairman Mossey would like to look into this a little more. Chairman Mossey stated that he doesn't want to make a rash decision.

**Motion: Tom Larson**

**Second : Tony Coppola**

**Motion made to bring Bill Murray on as consultant to the Conservation Commission. All in favor, motion carries.**

**Motion: Tony Coppola**

**Second: Tom Larson**

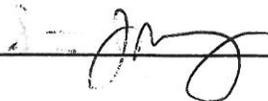
**Motion made to continue to maintain the Ward River Rail Trail within the guidelines stated in the letter which will be sent out.**

**Motion: Larry Therrien**

**Second: Tom Larson**

**Motion made to adjourn at 7:10 pm. with no further discussion. All in favor.**

Approved: \_\_\_\_\_



Date: \_\_\_\_\_

2-4-15

