

**TOWN OF DIGHTON
BOARDS OF SELECTMEN/HEALTH
SEPTEMBER 19, 2012**

E. Bud Whalon called the meeting to order at 7:30 PM.

Present: E. Bud Whalon, Dean V. Cronin and Thomas J. Pires

The pledge of allegiance was recited.

Approval of Minutes

Motion: Dean V. Cronin, seconded: Thomas J. Pires, VOTED to approve the meeting minutes of September 12, 2012.

Vote: UNANIMOUS

Approve Warrants

Motion: Dean V. Cronin, seconded: Thomas J. Pires, VOTED to approve the following warrants:

Warrant #012A-13	Payroll	\$	62,179.40
Warrant #012B-13	Vendor bills	\$	155,670.33

Vote: UNANIMOUS

Expenditure Detail

The Board has nothing to report at this time.

Correspondence

Free Cash has been certified as of July 1, 2012 for the Town of Dighton in the amount of \$542,090 for the General Fund and \$678,744 for the Sewer Enterprise Fund. The Board noted that some of the money is going to be used for the contaminated land clean up at the Highway Garage, replenish the Stabilization account and to lower taxes.

Columbia Gas of Massachusetts is announcing their fuel assistance program, as well as, a discounted Low Income Gas Rate for those seeking assistance. For more information please contact Columbia Gas at (800) 688-6160.

Wildlands Trust, Inc., would like to offer to the Town and its Open Space Committee assistance in revising and updating the existing Open Space and Recreation Plan, which expired in 2009. Mr. Pires will explore the opportunity.

The Board received Certificates of Recognition from the City of Attleboro and the City of Fall River in celebration of the Town of Dighton's 300th celebration.

Announcements were read.

Report of the Personnel Officer

NONE

Review/Discuss/Act: Establish Yearly Mooring Fee (3rd Reading)

The Board discussed establishing a \$50.00 yearly mooring fee. This is the Boards third reading. Motion: Thomas J. Pires, seconded: Dean V. Cronin VOTED to establish an annual Mooring Fee in the amount of \$50.00.

Voted: UNANIMOUS

Review/Discuss/Act: Bids for Tank Removal at the Highway Garage

Highway Superintendent, Thomas Ferry, received four bids for the removal, cleaning and properly disposing of two 10,000 gallon tanks and associated piping that was discovered on September 11, 2012 during the contaminated soil removal project at the Highway Garage. One tank appears to be ¾ full of water with traces of petroleum and the other tank appears to be ¾ full with a layer of fuel oil on the water. Property permitting through the Fire Department will be obtained. Motion: Thomas J. Pires, seconded: Dean V. Cronin VOTED to accept the recommendation of Highway Superintendent, Thomas Ferry and award the bid for tank removal at the Highway Garage to Enpro Services, Inc. in the amount of \$22,904.80.

Voted: UNANIMOUS

Mr. Ferry is anticipating a “worst case scenario” cost in the amount of \$60,000.00

Mr. Ferry also presented Work Order 3 from Green Seal which outlines the scope of work to be performed over the course of the month.

Review/Discuss/Act: Snow Plow Hourly Rate

Highway Superintendent, Thomas Ferry asked the Board to consider increasing the hourly rate of hired snow plows as the last increase was two years ago. Mr. Ferry will review the rate of surrounding towns and report back to the Board next week.

Debbie Lepage and Greg Wholean re: Conservation Commission

Debbie Lepage and Greg Wholean appeared before the Board to discuss concerns relative to Conservation Commission Hearing(s) scheduled with Arthur and Bernard Miranda pertaining to the emplacement of a culvert on Elm Street. It was noted that the matter is presented to the Board at the request of Ms. Lepage and Mr. Wholean because they feel that they have been unfairly treated during the Conservation Commission Hearings. Mr. Wholean presented and read a letter to the Board (Exhibit A) expressing specific concerns relative to the proposed work. Chairman of the Conservation Commission, William Frenette responded to the concerns and advised that the next scheduled hearing for the matter is October 10, 2012. Abutter notification should be received no later than September 28, 2012. The Board will be kept apprised of the situation.

Joanne Bettencourt re: Drainage Easement

Joanne Bettencourt of Williams Street appeared before the Board requesting to remove an easement (Book 1551, Page 843) removed from her property. Said easement was placed on December 19, 1969 for a culvert to carry water away from the highway and to enter upon said land at any time for the purpose of constructing, repairing and maintaining the culvert. It was noted by Thomas Ferry, Highway Superintendent that the culvert is no longer in use and

is “bricked up”. Thomas Pires noted that he is opposed to withdrawing the easement as it may be used at a future date. The Board will review the matter with Town Counsel.

Review/Discuss/Act: Appoint Two Constables

Tabled

Review/Discuss/Act: Refinancing of Rescue/Pumper Truck

Treasurer/Collector, Mary Hathaway presented a proposal from All American Investment Group, LLC offering to refinance the Town’s current lease of the KME Rescue Pumper Fire Truck. By refinancing said lease with a new interest rate of 3.50% the total savings is \$6,880.38. Motion: Thomas J. Pires, seconded: Dean V. Cronin VOTED to approve the refinancing of the KME Rescue Pumper Fire Truck with All American Investment Group, LLC as presented.

Vote: UNANIMOUS

Review/Discuss/Act: Prime Time/COA New Hire

The Board received notification from Executive Director of Council on Aging, Alice Souza, that the recently hired Activity Instructor, Caitlyn Lavin, has resigned. As a result, the next available applicant, Rose Carpenter, has been selected for the replacement. Ms. Carpenter has been CORI checked and fits all the requirements for the position. Her starting date is scheduled for Monday, September 24, 2012. Motion: Dean V. Cronin, seconded Thomas J. Pires: to approve the hiring of Rose Carpenter as the Council on Aging/Prime Time Activity Instructor effective Monday, September 24, 2012.

Vote: UNANIMOUS

Public Input

NONE.

Motion: Thomas Pires, seconded: Dean V. Cronin to adjourn at 8:49 PM.

Vote: UNANIMOUS

Respectfully submitted,
Boards of Selectmen/Health
Kerrie J Easterday, Administrative Assistant

Approved by:



~~Letter
withhold~~

Agenda 9/19/12

BW BCW

~~JP~~ TP

DC DC

September 17, 2012

Via email Kerrie Easterday keasterday@townofdighton.com

Board of Selectmen
Town of Dighton
979 Somerset Avenue
Dighton, MA 02715

Mr. Dean Cronin, Mr. Thomas Pires, and Mr. E. Bud Whalon;

This letter is being submitted to the Board of Selectmen in order to formally bring to their attention an ongoing issue with the Conservation Commission pertaining to unauthorized work on Elm Street.

BACKGROUND: Some time during the fall and winter months of 2011 a logging operation was conducted on lot 15 - 1, Map 23 off of Elm Street. During a logging operation a culvert was emplaced across an existing, unimproved, farm path approximately 700 m west of Elm St (photo at enclosure 1). On May 2nd, 2012, a notice of intent to abutters with a Massachusetts Department of Environmental Protection letterhead was received by a few abutters. This document identified landowners as Arthur and Bernard Miranda of 3035 Anderson Dr., Dighton and was dated April 28, 2012. This document (enclosure 2) advised that the individuals had complied with the Massachusetts Department of Environmental Protection law M. G. L. c. 131, s 40 and that they had made an application to the Bureau of Resource Protection for official approval and permit for the land they owned in Dighton. This document further indicated that the work was scheduled to begin on or about April 28, 2012. The document also indicated that a culvert was going to be replaced on Lot 15, Map 23 in Dighton. At that time, the culvert had already been placed prior to the indicated start date; no remediation standards were placed (hay bales, silk fencing) and no DEP notification with permit number was posted. Further, and most importantly, this notice failed to provide any information regarding a hearing before the Conservation Commission. This matter was addressed by abutters toward town officials to include members of the board of selectmen and the Conservation Commission at the time of receipt of the notice.

On May 19, 2012 a second notification to abutters (enclosure 3) was sent to some of the abutters. This document also failed to provide a notice of a hearing with the conservation commission. It did however, indicate that by calling (508) 989-8105 at 9 AM on Mondays one could receive information regarding the date, time, and place of the public hearing. Calls to this number and contact with Commission members indicated that no plans had been submitted and that no hearing would be held until appropriate plans were submitted.

No further notices have been received by abutters to date and yet the Conservation Commission has had the Miranda project on Elm Street as an agenda item since May.

CONCERNS:

What is the impact of the emplacement of this culvert on the wells and wetlands in the area?

Has the Commission made any inquires/investigation relative to the claim by the landowners that the culvert was a replacement rather than new work as advised by the abutters.

Why has the Commission not taken any action relative to the two "notices" that failed to meet the minimum requirements of Mass. General Laws and the Commissions own Regulations, By-laws and Policies?

Why has the Commission taken no enforcement action in this matter and would other developers be granted the same considerations?

What is the responsibility of the Commission to address questions from the public regardless of the developer's presence or non-presence at a hearing?

Why has the Commission continually extended the hearings for this matter with so many inconsistencies exhibited by the developers?

Do any of the Commissioners have an existing relationship with the developers that would require their recusal in this matter?

Sincerely,

Greg Wholean
2822 Elm St.

CF:
MA DEP
Abutters Group

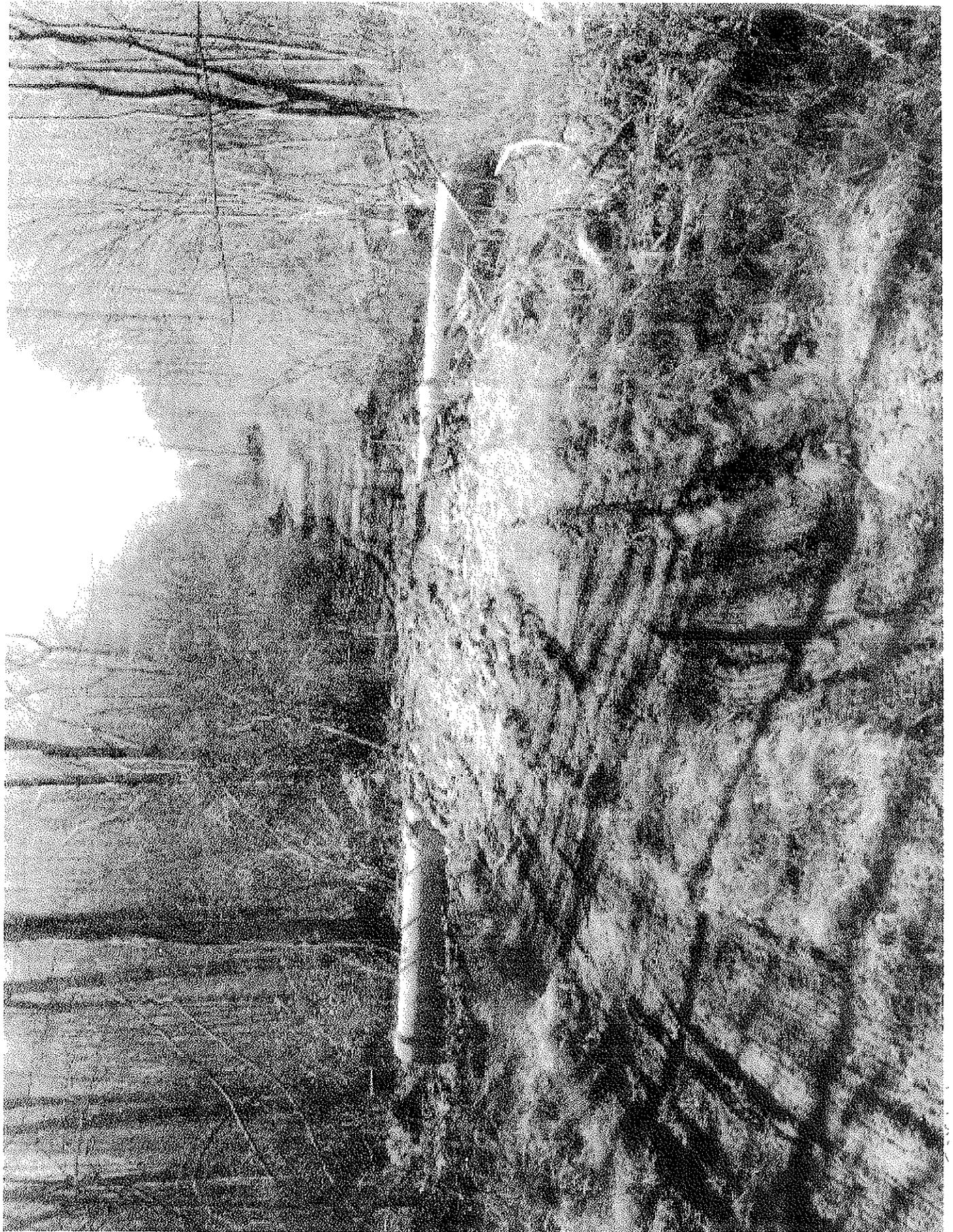
No 19 -
Wetlands
Under
Stream?

100% lower than others -> pink - small area - 1/4 acre? (2000)
Investigated, took to file, did w/ mistakes, resolved

Abutters Group (2000)

Logging plan - Status?

Noting and work of 1/2
of paper work - plan
presented (2 wk prior)



Notice of Intent to Abutters
Massachusetts Department of
Environmental Protection

File Number 15-23

LANDOWNER: ARTHUR & BERNARD MIRANDA

ADDRESS: 3035 ANDERSON DR.
DIGHTON MA. 02715

DATE: 4/28/2012

ABUTTER: WHOLEAN BETTINA

ADDRESS: 2822 ELM ST.
DIGHTON, MA. 02715

Dear Abutter:

Please be advised that I have complied with Massachusetts Department of Environmental Protection Law M.G.L.c.131, s 40 by making application to the Bureau of Resource Protection for official approval for a permit for land I own in the city/town of Dighton, Massachusetts 02715. This work is scheduled to begin on or about the date of 4/28, 2012.

The area to replace culvert on Lot 15 Map 23 on Dighton Maps about 900 ft. off of Elm Street, Dighton, MA, 32 ft. of 24" concrete pipe.

ENCL 2

D. Refund of Disputed Fees

1. Under the payment procedures established by DEP regulations, the applicant may dispute the amount of the fee the conservation commission determines is applicable to the proposed project. If the fee dispute is resolved in favor of the applicant, the applicant is entitled to a refund of the incorrect amount. One half of the refund is to be paid by the city or town and the other half by DEP.
2. If a refund is due, the conservation commission should prepare a voucher and submit the voucher, with appropriate supporting documentation, to the town accountant or city auditor for placement on the treasury warrant. A copy of the DEP decision would be sufficient documentation. Upon approval of the warrant, the treasurer will issue the refund to the applicant.

20.4.3 Notification to Abutters

This form for the abutter notification required by the Wetlands Protection Act can be expanded to include notification under a non-zoning wetlands bylaw/ordinance. The Conservation Commission may wish to suggest that applicants use this or an adapted version. Abutter notification is covered in HB §12.8.3.

NOTIFICATION TO ABUTTERS

In accordance with the second paragraph of the Massachusetts Wetlands Protection Act (G.L. Ch. 131 §40), and §10.05(4)(a) of 310 CMR 10.00, and the [municipality] Wetlands Protection Bylaw [Ordinance] and regulations, you are hereby notified of a public hearing on the matter described below.

- A. A Notice of Intent has been filed with the [municipality] Conservation Commission seeking permission to remove, fill, dredge or alter an area subject to protection under G.L. Ch. 131 §40) and the [municipality] Wetlands Protection Bylaw/Ordinance.
- B. The name of the applicant is []. Bernard Miranda
- C. The address of the land where the activity is proposed is []. Lot 15-1 Map 23
- D. The work proposed is [*describe. e.g., construction of subdivision road, construction of single family home*]. Repair Drain
- E. Copies of the Notice of Intent may be examined at [] from [*time e.g., 9 am-12 noon*] on [*days of week, e.g., Mon.-Thu.*].
For more information, call: [*telephone number*].

Check One: This is the applicant [], applicant's representative [], or other [*specify*].

- F. Copies of the Notice of Intent may be obtained from either (check one) the applicant [], or the applicant's representative [X], by calling [*telephone number*] from [*time e.g., 9 am-12 noon*] on [*days of week, e.g., Mon.-Thu.*].
- G. Information regarding the date, time, and place of the public hearing may be obtained from either (check one) the applicant [] or the applicant's representative [X], by calling [*telephone number*] from [*time e.g., 9 am-12 noon*] on [*days of week, e.g., Mon. Thu.*].
(508) 989-8105 9:00 AM Mondays

Notice of the public hearing, including date, time, and place, will be published at least five business days in advance in [*name of newspaper*]. Taunton Daily Gazette

Contact the [municipality] Conservation Commission or the Department of Environmental Protection (DEP) Regional Office for more information about this application or the Wetlands Protection Act, and the Commission regarding the [municipality] Wetlands Protection Bylaw/Ordinance.

Conservation Commission [*telephone number*] DEP Regional Office [*name of region*][*telephone number*]

- E. Copies at 3035 Anderson Drive, Dighton, MA
Time 9:00 AM on Mondays
Telephone # (508) 989-8105
-
- F. (9:00 AM Mondays (508) 989-8104