

SUTTON CONSERVATION COMMISSION  
February 21, 2024  
MINUTES

Approved: 

\*NOTE – This was a Hybrid meeting held in-person and via Zoom teleconference.

In-Person: William Wence, Chair, Michael McGovern, Vice-Chair, Robin Jacques, Clerk, James Marran, Timothy Thompson, and Associate Jared Duval

Present by Zoom:

Unavailable: Michael McGovern, Vice-Chair,

In-person Staff: Wanda M. Bien, Secretary  
Brandon Faneuf, Consultant  
Samantha Carew, Consult Assistant

The Chairperson conducted a roll call to determine which members were in-person and via zoom recorded above.

**STATEMENT REGARDING  
HYBRID MEETING**

**Conservation Commission**

**February 21, 2024**

Pursuant to Governor Healey's March 29, 2023 order extending the temporary provisions pertaining to the Open Meeting law until March 31, 2025, this meeting of the Sutton Conservation Commission is in HYBRID format and is being recorded. The recording will be available on the Town's website and YouTube channel.

**6:30 – Public Hearing (Cont.) Notice of Intent (NOI)  
100 Worc. Prov. Tpke – DEP# 303-**

J. Marran recused from this public hearing

Motion: To waive the hearing notice, by R. Jacques  
2<sup>nd</sup>: T. Thompson  
Vote: 4-0-0 R. Jacques-yes, T. Thompson-yes, J. Duval-yes, W. Wence

The project consists of redevelopment for a commercial building with nine service bays and warehouse with associated earthwork, utilities, paving, landscaping and stormwater management.

In-Person: Travis Brown, Mid-Point Engineering, for Chad Boardman, Eastern Partners

We received a request to continue to the next meeting.

Motion: To continue **100 Worc. Prov. Tpke** to March 6, 2024, at 6:40 pm, by R. Jacques  
2<sup>nd</sup>: T. Thompson  
Vote: 4-0-0 R. Jacques-yes, T. Thompson-yes, J. Duval-yes, W. Wence-yes

**6:35- Discussion  
134 Leland Hill Road – Grant Woodard**

We have a request to continue, due to the engineering company, not having the paperwork completed yet.

**6:40 – Discussion:  
11 Depot Street/Polyvinyl – wetland issue with no permit**

The secretary told the Board that the two letters were both returned.

B. Faneuf showed the pictures taken on his site visit, showing that they were doing work without a filing.

J. Marran said to get him the letters and he would hand deliver them to the company on Thursday.

**6:45 – Discussion/Update:  
41 Old Mill Road – Jack O'Brien, owner**

On Zoom: Raouf Mankaryous, Alpha Omega, second engineer on this project.

J. O'Brien updated the Commission with the mistakes of the old Contractor, the budget issues making them pose for a bit, and growing of the grass. But they are in better shape now to go forward in about a month and restart the construction.

W. Wence asked if all the outside was done, but the grass looks like it's still growing, and the driveway was repaved.

J. O'Brien said he received a lot of complaints and asked if the Cease and Desist has a summary.

B. Faneuf replied there is no summary but if you send in a public records request, whatever is in the file you could have a copy of.

J. Marran said even the meeting minutes.

The secretary explained he needed to request that information on the town website through the Town Clerks office.

Abutter:

Becky Vandell, 36 Old Mill Road, owns 49 Old Mill Road, said there were 34 rain days, and before this the water only came once a year. This is not resolved.

Dave Vandell, 36 Old Mill Road, said 41 is behind the picture shown, of the stone wall near the evergreen tree. He explained the problem is not cured, the driveway is ok, but the water still runs over his property.

R. Jacques explained why the Commission issued an Enforcement Order before the water started.

B. Vandell, said this has not ever been fixed, the water moved all around in the wetlands and now much more water is coming down.

B. Faneuf explained that it's not a requirement to do stormwater review for a single family home. Lot of clearing of the trees changed the runoff from the hill coming downward.

W. Wence asked where his easement was.

D. Vandell replied It's in the middle of the stone wall, he owns half and the town owns the other half. He said this water all started when the construction started on 41 Old Mill Road.

J. Marran said he would go there on the next rainy day to check this out.

R. Mankaryous said the wetland were flagged to the neighbor's property, and all work was in the buffer zone section of the driveway. They even did much more than what was required, except for the stormwater info for a single family home. They did beyond what is on the plan, he suggests to have the DPW check and possibly clean the pipe along the roadway.

#### **6:50 – Discussion/Update:**

##### **45 Oak Street Project – in Douglas**

In-person: Pat Manahan, Senior project manager

Via Zoom: Greg Moorhouse, project manager, Jason Smith Bluewave Energy, and Jeff Murphy, Devin Herrick

B. Faneuf explained about the letter and what was accepted in both towns.

W. Wence read the letter received by Ryan Fattman, State Senator, into the records.

J. Smith explained this letter was received by Douglas also.

B. Faneuf spoke of the Moczynski Trust land, soil testing, removal of the land slide materials, but she needs to sign the paperwork so the company can do the clean up on this property. An edited letter was given to Mrs. Moczynski, which is being edited to do this clean up.

D. Herrick said they only need verbal to go on the property.

J. Smith replied they are ready to do the clean-up, but still need the approval, and they are 90% done with Douglas, but need the access agreement, by State Law.

B. Faneuf said the letter was received from the Moczynski Trust, which address all issues.

Abutter:

L. Moczynski, 60 Oak Street said two weeks ago, she received a letter which wasn't signed and had no letterhead. It is critical to clean-up the wetlands with the testing with the appropriate equipment. But she had no idea who the letter came from.

William Rossie, 41 Oak Street questioned about the divers in the water and asked what the update was.

Devin Herrick replied they met with the company las week, but the company is booked out one to two months, so they are waiting for the proposal from that company. They were only able to get one proposal from one company. Other companies wouldn't send anything to them.

See Attachment #1, Ryan Fattman's State Senator's letter

## **Board Business:**

Minutes: 02-07-24-24

Motion: To approve the minutes of February 7, 2024, by R. Jacques

2<sup>nd</sup>: T. Thompson

Vote: 5-0-0 R. Jacques-yes, T. Thompson-yes, J. Marram-yes, J. Duval-yes, W. Wence-yes

Discussions/Updates:

Site Visit review for Certificate of Compliance requests:

Departmental Project Input Forms from Planning department:

**64 Worc. Prov. Tpke** – Use change/Dance Studio

B. Faneuf said if there is no land disturbance no review is needed.

**Unexpected Business: 42 Bond Hollow Road – Tim Fisher**

T. Fisher came in because of the C & D letter he received and explained why he piled the rocks in the large swale along the roadway and driveway, and extended the pipe.

B. Faneuf said a Cease and Desist order was issued for filling in the swale. He explained that the open Order of Conditions does not cover this new work that was done. They need to file a Notice of Intent to finish the new work. And file for the Certificate of Compliance for the other two open Orders, which the second order expired on March 20, 2024. He also showed the pictures taken on his site visit.

J. Duval asked what the purpose of filling in the swale was, extending the pipe could be making it worse with erosion and scouring.

T. Fisher replied to modify the septic system and create the rip rap area.

J. Marran asked how this came about.

B. Faneuf replied from a previous commissioner and abutter.

T. Fisher said he didn't know this was within the Conservation's jurisdiction, but he can go through and engineer to finish the work that needs to be completed.

B. Faneuf said he had two options, he can complete the restoration, as this can't be left as is, or he can re-apply to do the finish work, to convince the Commission that this is ok to do.

W. Wence replied if an engineer can help to finish this job, maybe the Order could be amended.

B. Faneuf said that Alpha Omega was the engineer.

T. Fisher mentioned the second violation was constructing a stonewall along the driveway. He was just piling the stones there, from the property on the side of the driveway. He was going to use the extra stones to build a stone wall up further.

J. Marran said they need to put up erosion controls.

B. Faneuf replied, yes especially on the exposed dirt area. Then they need an engineer to look at this and put it on a plan.

J. Marran said the plan will should the work can be done.

B. Faneuf asked the Commissioners if they want to issue and Enforcement Order to set a deadline that this needs to be finished by?

J. Marran said we need an engineered plan to review.

T. Fisher replied he would get a plan, and put up the straw wattles, and asked if hay bales were ok.

B. Faneuf said no, that leaves too much invasive stuff in the area.

J. Duval said straw bales only, would be the best to use.

Motion: To adjourn, R. Jacques

2<sup>nd</sup>: T. Thompson

Vote: 5-0-0 R. Jacques-yes, T. Thompson-yes, J. Marram-yes, J. Duval-yes, W. Wence-yes

Adjourned at 8:05 pm



*The Commonwealth of Massachusetts*  
*Massachusetts Senate*  
*State House, Boston, MA 02133-1054*

**RYAN C. FATTMAN**  
**STATE SENATOR**

WORCESTER & HAMPDEN DISTRICT  
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February 21, 2024

Chairman Kevin D. Morse  
29 Depot St.  
Douglas, MA 01516

Chairman Jonathan Anderson  
4 Uxbridge Rd.  
Sutton, MA 01590

Re: BlueWave Solar and The Douglas and Sutton Conservation Commissions

Dear Chairman Morse, and Chairman Anderson,

As the legislative delegation for the towns of Sutton and Douglas, State Representative Joseph McKenna and I are writing in support of the efforts of Conservation Agent Brandon Faneuf and the Douglas and Sutton Conservation Commissions regarding their work mitigating runoff pollution at the 30-acre BlueWave Solar property site in Douglas. We encourage you to support their effort to enforce the Wetlands Protection Act in their local bylaws as it relates to this issue.

I have spoken to Agent Faneuf concerning Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) running into ponds and streams across the two towns. I have also been briefed on the issue by both towns' Conservation Commission Chairs: Bill Wence and Joseph Fitzpatrick.

Clear-cutting has negatively impacted both private and recreational property in the two towns. Homeowners are faced with washed-out driveways, flooded yards, and property erosion. There is an alarming freshwater environmental concern in areas such as Manchaug Pond, where sediment runoff flowed through the woods from the BlueWave site to the wetlands at Holt Road a quarter mile away and directly into Manchaug pond. Had this incident occurred mid-summer, swimming would have been restricted in at least the lower area of the pond. Further, recreational spaces like Kings Family Campground, Lake Manchaug Camping, YMCA Camp Blanchard, and Sutton Falls Camping Area are

currently at risk of a seasonal financial impact if mudslides, erosion, and runoff persist into the camping and swimming season. Hazardously, the pollution has exited Manchaug Pond and spread downstream to several other ponds and into the Mumford River, a part of the Blackstone River Watershed. The potential PFAS runoff's impact on wildlife, cold water fisheries, and other vulnerabilities are unknown yet alarming.

These present issues are perhaps most frustrating given the very recent track record of a similar project in Douglas by the same company with similar negative community and natural resource impacts. Through the summer of 2021, a largescale solar development, built by clear-cutting the uphill slope of a steep hill leading directly to Wallum Lake with dozens of residences in between, led to massive erosion, flooding, and discharge of sedimentation into the lake. We are concerned that in the wake of this incident at Wallum Lake resulting in a similar environmental impact, BlueWave has clearly not taken thoughtful steps to alter their protection protocols moving forward. We understand that due to current damages, Douglas has levied a \$200 fine/day and Sutton a \$300 fine/day, and there is the prospect of more fines based on stormwater run-off. That said, we would encourage you to revisit Massachusetts General Law Ch 40 Section 21D and work with the Department of Environmental Protection (DEP) to expand the chapter fees and penalties for major corporations that may see these fines as the "cost of doing business."

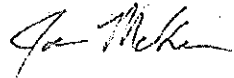
Further, Representative Joe McKenna and I are looking to file legislation to increase the current fine allowances, which have not been adjusted in several decades. We hope this message makes clear that we are unhappy with BlueWave's stewardship of this project and feel the current fines do not adequately represent the chaos and destruction of their irresponsible development. BlueWave must be markedly held accountable.

We hope to be a resource to you as you navigate this unfortunate circumstance. We understand attention to this matter is time-sensitive, as further rain and snow melt will continue to cause future calamity, and the current "duct tape and bubble gum" approach will not suffice. Thank you for your time and attention to this matter.

Sincerely,



Senator Ryan Fattman  
Worcester and Hampden District



Representative Joseph McKenna  
18<sup>th</sup> Worcester District





**TOWN OF SUTTON**  
**CONSERVATION COMMISSION**

**CERTIFICATION**

I, Jared Duval, hereby certify that I have viewed the online video of the Sutton Conservation meeting of February 7, 2024.

I certify that I have complete knowledge and understanding of all elements contained therein.

\_\_\_\_\_  
Signature

February 21, 2024

\_\_\_\_\_  
Date

**Date:** 2-21-24

[illegible]