

**MINUTES**

**CALL TO ORDER**

Meeting called to order by Ms. Angus, Chair at 7:05 p.m.

**ATTENDANCE**

Present: Angus (C), Walker (VC), Allen, Boice, Britt, Healey, Brooks  
Staff: Willson, Ziomek

**CHAIR, DIRECTOR & WETLANDS ADM REPORTS**

Ms. Willson stated that construction of stream #3 at Owen's Pond will start Mon. (4/29). She stated she inspected Rte 116 project. Erosion control is in place and functioning, they are working on the southern end not close to any resource area.

**CONSERVATION COMMISSION'S ACTION**

**PERMITS/DISCUSSIONS**

**7:15 PM Informal Discussion** – Barbara Ford, North Amherst Neighborhood Association - Retreat

Ms. Angus stated there is the potential that the Commission will vote on both Ch. 61 removal for this land and eventually on a wetlands application regarding development. Therefore, the Con Com can listen to what the residents have to say tonight, however, will not be discussing or providing any opinions on the issue. She added that there are a number of Commissioners who are abutters. Ms. Willson stated she recently emailed the Commission the Conflict of Interest forms and information from the State Ethics Committee.

Ms. Angus asked if we know when the Ch. 61 release may come before the Commission. Mr. Ziomek stated Town Counsel has suggested that Commissioners who live near the subject parcel fill out the disclosure forms with the Town Manager that will then allow them to participate in the discussion. He added that Briony, because she is a direct abutter, will not be able to participate. Mr. Ziomek stated the Town received the official notice that Cowls intended to remove the parcels from Ch. 61a, however, Town Counsel reviewed it and deemed it "in adequate notice". Cowls was notified of this and the Town has not heard anything since, so the clock has not started for it's review.

Barbara Ford stated Save Historic Cushman does have a warrant article at Spring Town Mtg. Jack Hersch asked how land gets into Ch. 61, what obligations there are to be in it, and who monitors those obligations. Mr. Ziomek stated that is conducted through the Assessors Office. An annual form is filled out by Ch.61 land owners that is submitted and reviewed by the Assessors Office. It asks things like what do you plan to do with the land, what crops/products will you grow, how much money do expect to make from the crops, etc. Mr. Hersch stated that the Assessors office has no expertise in Conservation.

Mr. Ziomek stated they aren't assessing it for its conservation value, it's a tax break for keeping land in agriculture, forestry or recreational use, golf courses, farmers and foresters do it.

Mr. Hersch handed out pictures of the logging practices on the land. He stated it had been logged heavily lately, which takes away its conservation value. He stated that they feel the Master Plan and the Open Space & Recreation Plan support their proposal for the Town to buy the land for conservation. He read from the Open Space & Rec Plan. He stated this land is the largest contiguous woodland in North Amherst, and even though it was recently logged it remains a good example of a central New England forest. It is a woodland corridor from the vast woodlands in Shutesbury. It's a wonderful place for birds, and has the salamander crossing. He stated they have contacted some grant organization and presented to the CPA who were very supportive. They expect to go fundraising as well. The land is wonderful for passive recreation, it's connected to Puffer's Pond through the Robert Frost Trail. They feel this development threatens a woodland that embraces many of the things Amherst wants. He stated he hopes the Con Com will support the Town's consideration to buy the land.

Jeremy Coleman, lives on Flat Hills Rd., stated they don't want to see a loss of recreation land, there are a lot of trails on the land. There is a danger of forest fire with the students being so close to land with a lot of slash from logging. Landmark had no suggestions to solve this issue. He added there will be an increase in human/wildlife conflict, and an increase in light and noise pollution. He is concerned about water pollution in Hawley Swamp, during construction and also after from pavement runoff and pesticides/herbicides/fertilizer.

Ms. Angus stated the Con Com appreciates all the public involvement & effort in this, and along with staff can provide information & answer questions. However, it's not appropriate for the Con Com to vote to support or not support the warrant article. Mr. Ziomek stated it is common for groups to come to committees looking for support of warrant articles. He added maybe the Con Com discuss more thoroughly at another meeting, maybe get some guidance from Town Counsel. Ms. Angus stated maybe she's wrong about the Con Com taking a stance, let's talk to Town Counsel. Barbara Ford, Flat Hills Rd. resident, stated the land is valuable to Amherst residents and others and that it may not have been considered for conservation before because it was protected under Ch. 61.

Mr. Walker asked for clarity regarding the money, the warrant is asking for 1.2 million and the seller is asking 6.5 million. Ms. Ford responded they were thinking of the Conservation Restriction cost, it's assessed at \$75,000. Mr. Walker asked if they had talked to Cowls about doing a conservation restriction for 1.2 million. Mr. Hersch said Cowls said they would sell it to Save Historic Cushman for 6.5 million. Ms. Ford said there is not a willing seller right now, but if development falls through that may change. Mr. Hersch said they based the 1.2 million on the cost of similar conservation restriction done in Shutesbury. Willson to ask Town Counsel about Con Com voting on supporting/not supporting Article 43. Mr. Ziomek stated that all the projects he has seen go through the land acquisition process, CPA always asks if there is a willing seller. Ms. Ford said it did happen with Wildwood School property.

**7:30 PM Notice of Intent** – Zbylut Motor Works for a building addition and associated parking, grading, and stormwater drainage within the buffer zone of bordering vegetated wetlands at 398 Northampton Rd. (Map 13D, Parcel 47 & 48).

- Opened the public hearing at 7:45 p.m.

- Closed the public hearing at 8:20 p.m.

Mike Liu, Berkshire Design Group, presented the project. He provided photos and plan. He stated the bordering vegetated wetlands are located on the southern end of the site, they start near where the neighboring property drains and eventually goes to the wetland complex behind Stop & Shop. The site plan shows the new 4600 SF building addition, paved parking, driveway and wetland setbacks. Work within the buffer zone will include clearing, excavation/grading, and installation of a level spreader. Drainage from the driveway, parking and roof will go to a catch basin treatment chamber and underground infiltration bed under the parking area. If this system overflows it will flow as sheet flow to the level spreader. Erosion control barriers will be installed along the southern limit of work.

Mr. Liu stated that at the site visit it was asked if porous pavement or gravel could be used for the parking area instead of pavement. He stated that would result in less water going through the catch basin treatment system. If oil, for example, is released from a car it would just enter the ground. He said they can move the paved area 6 ft. north out of the 100' buffer zone. Ms. Boice asked if cars will be parked in the paved area. Mr. Liu said it's not an official parking lot but cars will be parked there on and off. The building will be used to display cars not repair them. Mr. Liu said the applicant is willing to use pea stone for the parking area. Ms. Healey asked if they could move the level spreader north away from the wetland. Mr. Liu said they could do that, maybe 10 to 15' north.

Ms. Willson provided photos from the site visit. Mr. Liu said that Ward Smith delineated the wetland a couple of months ago. Ms. Willson stated they found old, large piles of mulch, wood debris, and some metal within the buffer to the wetlands on the western portion of the site. Ms. Healey asked if anything can be done to remove these things. Mr. Zbylut stated he has been using the mulch and that he did some cleaning back there because college students used to live on the property. Mr. Zbylut said he would take care of it.

Ms. Angus stated there are some plan changes requested: change in the pavement service, moving the pea gravel parking out of the buffer zone and the level spreader northerly, and minimize grading within buffer zone. Additional conditions include meeting all the Town Engineer's requirements from the stormwater review, and providing a revised set of plans to the Wetland's Administrator.

**Walker moved and Healey seconded. Commission VOTED (7-0-0)** to close the public hearing and issue the Order of Conditions.

**7:45 PM Notice of Intent (cont'd from 4/10/13)** - Brian Scully for restoration planting within the buffer zone of bordering vegetated wetlands at 22 Hawthorn Rd. (Map 21D, Parcel 164).

- Continued the public hearing at 8:20 p.m.
- Closed the public hearing at 8:25 p.m.

Willson stated that this project was presented and discussed at the last meeting but did not have Natural Heritage review at the time. We have received Natrual Heritage's review, which states the project as described will not adversely affect habitat of protected species, or result in a "take" of rare species. She added that the conditions were discussed at the last meeting.

**Britt moved and Healey seconded. Commission VOTED (6-0-1, Angus abstained)** to close the public hearing and issue an Order of Conditions.

**8:00 PM Request for Amended Order of Conditions** – Massachusetts Department of Conservation & Recreation for installation of a drainage pipe beneath the Norwottuck Rail Trail within resource areas (Map 16B, Parcel 5).

- Opened the public hearing at 8:25 p.m.
- Closed the public hearing at 8:45 p.m.

Willson stated that at the last meeting DCR requested whether an Amended Order of Conditions was acceptable or if the Commission felt a full NOI needed to be submitted for the new work. The Commission voted to allow DCR to amend the original Order of Conditions for the additional work.

Rich Brazeau, DCR, provided a letter officially requesting an amendment. He provided a presentation of the plans for the new work which entail installing a pipe for a siphon system to draw the water in the pond down so they can clean out the drainage pipe. The new permanent pipe would go under the Norwottuck Rail Trail and the storage area for Amherst Farmer's Supply. The pipe would be two feet below grade. Temporary PVC piping would be attached at either end during siphoning. He stated they will not completely drain the pond, and they will drain in June after most of the frogs, toads, salamanders eggs have hatched. Willson suggested a depth be provided for the draining. Brazeau stated the letter says leaving an 18" deep pool and use boards to block bottom of culvert to maintain the pool.

Willson asked what would be used at the discharge point to lessen the impact from the flow. Brazeau stated they will control flow with a gate valve. The hill is too steep to try and get rip rap or gravel down there. Willson asked if the discharge will be away from the wetland, not directly into it. Brazeau stated, yes, it will discharge out of the bank not down by the wetland.

**Healey moved and Walker seconded. Commission VOTED (6-0-1, Angus abstained)** to issue an Amendment to the Order of Conditions.

### **Miscellaneous Untimed Items:**

- Extension Permit for Order Of Conditions – Amherst Hills Subdivision

Ted Parker, Tofino Assoc., stated he's here to request an extension to the existing Order of Conditions for Amherst Hills Subdivision. He provided a presentation of the project. It's a 70 lot subdivision. Healey asked if there is a concern that something has changed. Willson stated that to approve an extension you want to confirm that work has started on the project and will continue, that there hasn't been any incidents with resource areas being impacted, and that things like the resource area delineations haven't changed. Parker stated that he has had sections of the original delineation checked by Chuck Dauchy but not the entire subdivision delineation. Parker stated that all the clearing, road bed, and underground utility work has been completed. When paving season starts they plan to pave the existing road bed on Concord Way and Lindon Ridge up to where it intersects Concord Way.

Willson asked if the roads to be paved are outside the buffer zone. Parker said yes. Healey asked if the roads are greater than 10' from the buffer zone. Parker provided a plan of the subdivision.

**Britt moved and Healey seconded. Commission VOTED (7-0-0)** to extend the Order of Conditions for three years with the condition that the wetlands administrator checks the delineation adjacent to the proposed road paving and works with Tofino to ensure that the erosion control is sufficient.

- Application for event on Conservation land – LSSE for dance class at Mill River

Ms. Angus stated this application is different from the typical research, etc. use of Cons. Land in that it's for a commercial class. Ziomek stated the class has probably already been advertised in the LSSE catalog. Ms. Britt stated she would be interested in how many students because it is a sensitive area. Ms. Angus suggested let's tell them to tread lightly and notify the Commission earlier next time.

**Britt moved and Walker seconded. Commission VOTED (6-0-1, Healey abstained)** to approve application, wetlands administrator to call LSSE and ask them to tread lightly and get permission from the Conservation Commission next time before advertising classes.

- Topics not reasonably anticipated 48 hours prior to the meeting

Willson stated that the Save Historic Cushman group has made formal complaints to MADEP regarding the forestry practices of Cows on that land and impacts to wetlands. Willson said she was contacted by DEP to investigate if any wetland violation under the WPA currently exists. There is no active cutting plan to regulate under. Willson stated if a violation is discovered the Con Com will be working with the DEP to issue an Enforcement Order. Willson said she will contact everyone regarding a site visit.

#### **ADJOURNMENT**

**VOTED** unanimously to adjourn the open meeting at 9:05 p.m.