

**Conservation Commission Meeting
February 12, 2014
Town Room, Amherst Town Hall**

MINUTES

CALL TO ORDER

Meeting called to order by Ms. Angus, Chair at 7:03 p.m.

ATTENDANCE

Present: Angus (C), Walker (VC), Allen, Boice, Healey, Brooks (**arrived after vote on minutes**)

Staff: Ziomek, Willson

CHAIR, DIRECTOR & WETLANDS ADM REPORTS

Ziomek stated the MACC annual conference is March 1. The Cons. Dept. has helped Commissioners in the past with registration fees. Healey added she got a grant from "Pocket Fund" last year to attend. Please let Beth know if you'd like to attend. Mass Land Trust Conf. on March 22, Ziomek may go.

MET Grant pre-proposal was accepted and full proposal is due March 14. Grant to study the Fearing Brook which drains much of downtown Amherst and discharges near Saul property into Fort River. Study would look at watershed, infrastructure, and water quality and it's for about \$30,000. We'll hear soon on a grant from the Land & Water Conservation Fund for work at Puffer's Pond. With matching capital funds have about \$36,000.

Ziomek stated that Brad & Chet rented a small excavator & chipper and have been chipping down at Plum Springs and in the watershed, and boundary marking in the watershed. Ziomek & Willson to meet with spotted turtle experts to look at data from Lawrence Swamp and maybe do population study. Saul project come before CPAC again on 2/20 which will be the public hearing, great if Boice and one other Commissioners attend. Grow Food Amherst will be there. CPAC will vote at 3/6 mtg.

Willson stated there are review letters from MADEP in Commissioner's packets that are relevant to tonight's hearings. She provided a review letter of tonight's submittals for Commissioner's reference. Willson referenced a letter in the Con Com packet that was sent out to the residents of the eastern end of Potwine Ln. The letter & map show locations of Cons. Land, trails, wetlands and vernal pools and discusses appropriate activity in those areas. She is planning on sending similar letters to Kestrel Ln/Hop Brook neighborhood and Hulst Rd. Brooks asked if there had been issues resulting in the letter. Willson stated in all neighborhood's the letter is in response to residents asking for it, asking for a way to inform their neighbors on how to better treat wetlands and Cons. Land.

CONSERVATION COMMISSION'S ACTION

APPROVE MINUTES

Approve minutes of 3-27-13 & 4-10-13 & 1-8-14.

Walker moved and Boice seconded. Commission VOTED (4-0-1, Healey abstained) to approve the minutes of 3-27-13.

Walker moved and Allen seconded. Commission VOTED (5-0-0) to approve the minutes of 4-10-13.

Healey moved and Boice seconded. Commission VOTED (3-0-1, Walker, Allen abstained) to approve the minutes of 1-8-14.

PERMITS/DISCUSSIONS

7:15 PM Discussion – Plum Brook beavers

Ziomek stated the area of concern is the Plum Brook between Rte 116 and Potwine Ln. Last summer breaching was permitted on Conservation land close to Rte 116 after residents along Mt. Holyoke & S. Mt. Holyoke Dr. complained of high water. He stated he has heard similar complaints from some of the residents present at the meeting from Pomeroy Ln & Pomeroy Crt. There are a number of beavers that have taken up residence in this section of Plum Brook on both private and Cons. land, question is what management techniques to use and how to pay for them.

Dave Rainin, 30 Pomeroy Crt., stated he and his neighbors have sent in a signed letter stating issues. It's a safety issue, people park south of brook bridge if storm is coming because flooding makes the bridge impassable. People's cars have been damaged, the road is in bad shape and hasn't be paved since 1991. He added the brook is now more of a pond because of the beaver dams. Brooks asked if Rainin knew where the dams are. Cheryl Wilson, 136 Pomeroy Ln, showed where a dam is to the east of Pomeroy Crt on Cons. land.

Mathew Dobson, corner Pomeroy Ln & Pomeroy Crt, stated water in his back yard has come up considerably and the culvert under Pomeroy Crt is completely submerged. He is concerned when spring thaw comes of more flooding. He has a two year old and is concerned about deeper water.

Dan Shapiro stated the water gets very deep on Pomeroy Crt, it's the damming two the west of Pomeroy Crt. that is causing the flooding of the road. His car and other's have been damaged and it's getting worse. Cheryl Wilson stated she has lived there since 1975 and the land has changed considerably in the last 10 years from the beaver activity. It is a safety issue, ambulance service can't get through the water on Pomeroy Crt. She added many of her plantings & trees have been damaged, it's a property value issue. Mr. Shapiro stated you can either get rid of the beavers or raise the road.

Michael Silverstone, 35 Pomeroy Crt., stated he never knows when it's raining if there will be a flood or not. When you approach the road over the culvert you don't know how deep it is, it's usually 8-12". Mr. Rainin added there is neighbor who lives next to Ms. Wilson who had a sink hole in her yard where a storm drain pipe rusted, DPW fixed the pipe and filled in the sink hole. Now end of drain pipe is disintegrating.

Ziomek stated we have done recon, we know where the dams and lodges are. Con Com has care, control, function over Cons. land and permit breaching, work in wetlands & Riverfront. There is some

Cons. land, but some dams/beaver activity is on private property. Ziomek has reached out to DPW, they are aware of the problem and also concerned. He stated it's not necessarily the Town's responsibility to deal with beavers on private land, and the residents may have to work with the Town financially to solve this. Mr. Silverstone asked where is the Town's responsibility in terms of road care. Angus said definitely not here. Ziomek stated this is an on-going maintenance issue, beavers vs roads.

Brooks stated it's a long term maintenance issue, you can trap this year and other's will be back next year. He suggests redesigning the road and putting in beaver deceivers. Ziomek asked the Commission if they came back with a proper sequence of events (trapping/breaching) would you consider breaching the dam on Cons. land. Con Com says yes. Ziomek will reach out to DPW, and meet with neighbors. Ziomek handed around contact list.

7:30 PM Notice of Intent – Joshua & Judith Lewis for renovations and additions to a single family house within Riverfront at 172 State St. (Map 5B, Parcel 32).

Opened 7:40 pm
Continued 8:20 pm

Michael Liu, Berkshire Design, presented the project. He pointed out all the resource areas and buffer zones on the overhead plans. He showed plans showing the area of Riverfront that is degraded and the area that is proposed to be disturbed. The paved driveway coming around the southern side of the house is going to be removed, portions will be returned to lawn and other portions will be replaced by a swimming pool and stone patio. There is a new garage proposed that straddles the Riverfront line, and a breezeway connecting the house to the garage. A few other changes to the house, driveway will be changed with extra parking, rock steps up to gazebo, and retaining wall at edge of lawn.

Mr. Liu stated there is on-site and off-site mitigation proposed for the amount of proposed disturbance to Riverfront that exceeds previously degraded Riverfront. On-site mitigation includes planting of shrubs, removal of invasives, and clean up of debris including a chain link fence along bank of Mill River. The work will be done by hand. Off-site mitigation will include providing wood mulch to improve the Julius Lester trail. 1,500 linear feet of a 4' wide trail.

Angus asked if the Cons. Dept. had been consulted about off-site mitigation options. Mr. Liu stated Con Com had suggested he look at Puffer's Pond 2020 report, he did and thought trail maintenance was a good choice. Walker stated he feels it's not enough mitigation. Boice asked if it includes the labor to put the chips down. She added there are a lot of side trails (boot leg) that maybe something can be done with. Healey asked if trail maintenance can be used as mitigation. Angus read the regs. Healey said she is more interested in making something better for the wetland not for the people using the trail. Boice suggested fencing to keep people on the main trail instead of the side trails.

Ziomek stated that the wood chips would improve the Julius Lester trail by getting hikers up off the mud so less erosion and thereby protecting tree roots. It's a well used trail. He added that the invasives removal doesn't seem like much if there aren't many invasives, what was your assessment of the habitat there, what native species. Mr. Liu stated that area is not heavily wooded, not a lot of underbrush. He stated that the site does not provide a lot of Riverfront area for restoration. The regs state that restoration must be done as close to the river as possible, so that is the most viable place to do it. Ziomek asked if

the land acquisition option as mitigation is off the table. Mr. Liu stated yes, if other mitigation ideas don't work out we may go back to that.

Ziomek stated that upstream along Cushman Brook, right next to the culverts under State St., the bank is eroding. One mitigation idea would be to do some plantings along there and a split rail fence. Another idea is reconstruction of the steps leading to the south beach of Puffer's Pond from State St. Angus stated since we can't close the hearing tonight due to NHESP review could the applicant go over the mitigation ideas with staff and come up with a plan for next meeting. Applicant agreed.

Angus asked if there were any questions on things besides mitigation. Boice asked if the driveway turnaround could be moved outside the 50' setback. Mr. Liu said yes, that can be done. Healey asked if the lawn could be planted with longer rooted grasses. Mr. Liu said he would look into that. Mr. Liu stated that the endangered species of concern is the bridle shiner (small fish).

Brooks moved and Healey seconded. Commission VOTED (6-0-0) to continue the public hearing until 7:30pm on 2/26/14. Applicant agreed to continue to time and date specified.

7:45 PM Notice of Intent – Joshua & Judith Lewis for renovations to a barn within Riverfront at 5 Mill St. (Map 5B, Parcel 31).

Opened 8:20 pm
Continued 8:30 pm

Michael Liu, Berkshire Design, stated the plans are to renovate the barn, put a deck on the south side, put in a stone walk, and paved driveway coming down to three parking spaces. He showed where Riverfront comes onto the site, previously degraded areas and proposed areas of alteration. Ziomek pointed out that the abutting property to the north is conservation land, so don't put the driveway over the property line. Allen asked if there was plan for the driveway drainage. Mr. Liu stated they could install a rain garden/bioswale to catch the driveway drainage. Boice stated water currently drains from State St. down Mill St. and erodes the Julius Lester trail. Mr. Liu stated that the water on Mill St. pitches to the east to a catch basin that drains to an outfall near the trail where there is an erosion problem. He stated they can add a rain garden/bioswale to the plans and potentially do something with the outfall erosion as mitigation.

Ziomek asked the plan for the large oak and other trees on the property. Mr. XXX, Wright Builders, stated there was an analysis of the trees and they're going to feed them with a treatment that builds their intercellular structure, do some minor pruning, and cables. He stated that he believes the client would be fine putting in a rain garden/bioswale. The project is removing more impervious than putting in. Allen asked in the hemlock by the driveway could be kept. Mr. Liu said he measured and it will have to go. Ziomek stated he's concerned about root damage from installation of pools, drive, parking with shallow bedrock. Mr. XXX said they are planning to be careful with the sensitive site.

Healey moved and Boice seconded. Commission VOTED (6-0-0) to continue the public hearing until 7:45pm on 2/26/14. Applicant agreed to continue to time and date specified.

8:15 PM Notice of Intent – Peter Heronemus for construction of a single family house and associated driveway within resource areas on West St (Map 22B, Parcel 1).

Opened 8:30 pm

Continued 8:50 pm

Peter Heronemus, property owner, presented the project. Ward Smith, consultant, couldn't come because he is sick. Con Com previously approved delineation in 2004, expired. Wetland flagging redone summer of 2013 by Heritage Survey and reviewed recently by Ward Smith. Ward found one location, western end of driveway where he marked the north & south wetlands as connecting. Mr. Heronemus stated that Tofino Assoc. originally had a permitted plan for 5 house lots. Willson stated the only permit from the Con Com is for the delineation, there was never a development project permitted.

Angus asked why the house had to be right on top of the isolated wetland, what is driving that location. He stated he thought the development that had a building in that location had been approved so he put his house in the same spot. Healey pointed out that the 30 & 50' setback lines need to be added around the isolated wetlands on the plan. Angus stated it would be a lot easier to permit if the house was out of the wetland and outside the 50' setback. She stated you can replicate but it's a lot easier, especially if you have no compelling reason why you're building in the wetland, to stay outside the buffer zones.

Willson stated that the delineation can't be checked/approved until the snow melts. She added we'll have to keep the hearing open until the delineation can be checked by the Con Com. Angus stated the applicant should go back and redesign to see if he can meet the local performance standards if not provide good reasoning why needs a variance. Willson stated DEP has requested additional information to determine if a 401 Water Quality Cert is required. Con Com has to wait to hear from DEP before closing hearing.

Allen moved and Healey seconded. Commission VOTED (6-0-0) to continue the public hearing until 7:30 pm on 3/26/14. Applicant agreed to continue to time and date specified.

8:30 PM Notice of Intent – UMASS and Northeast Utilities Service Company (NUSCO) for construction of a new substation and associated transmission lines within resource areas on Tilson Farm Rd. (Map 8C, Parcels 13C & 13D).

Opened 8:50 pm

Continued 9:25 pm

Brian Benito (NUSCO), Kim Brushan (UMASS), and Mickey Marcus (NEE) present. Mr. Benito stated the project is for construction of new utility lines within Riverfront and BVW for UMASS. Ms. Brushan stated the project is necessary with the new science building coming on line and other potential growth. Mr. Marcus stated they are not looking for any decisions tonight, they need to determine with DEP if they need to file a 401 Water Quality Cert. They have a meeting with DEP next week.

Mr. Marcus stated the project is being filed as a Limited Project under the utility provision. Clearing of the new utility right of way will temporarily impact about 14,000 square feet of a forested wetland. There is a permanent impact to wetland & Riverfront where the pole structures are being installed, a little less than 100 square feet. This needs a mitigation plan. Construction mats will be installed over approximately 9,000 square feet of wetland which is a temporary impact.

Ziomek asked if someone would walk the Commission through location of project, etc. Mr. Marcus went over the plan for the project. He showed one alternative location for the right of way that would have impacted over 50,000 square feet of wetland and would have crossed the Hawley Brook. He added he will provide a detailed alternatives analysis because there wasn't one in the NOI. Mr. Benito stated

the soil at that location was not right for the project, they would have had to remove a lot of soil and bring in fill. Mr. Marcus said there is an existing fiber optic line coming through part of the proposed new right of way. The new right of way will be approximately 300' wide, it will be for 3 new power lines, this is where the 14,000 square feet of forested wetland will be cleared. The construction area is in the existing right of way, where new pole structures will go. The Amherst Bylaw calls for 2:1 for replication of impacted BVW and there is room for that in the construction area. DEP is asking for restoration for secondary impacts to Riverfront and the forested wetland. He provided a plan showing three potential restoration locations in the vicinity of the project. One is within construction area, getting rid of invasives. Second area near pond on Tilson Farm Rd., again removal of invasives and replanting with native plants. Third a lawn area adjacent to Hawley Brook where native trees could be planted.

Allen asked if the new cleared ROW will be maintained similarly to the existing ROW. Mr. Benito said yes, we have a standard maintenance schedule, every 4 yrs. come through, maintained as low shrub/scrub habitat. Willson asked how they are quantifying impact to Riverfront. Mr. Benito said in Riverfront there is permanent impact from new structures and clearing of three trees. Boice asked about restoration for forested wetland. Mr. Benito said they are looking for the Commission to provide ideas for that restoration to bring to DEP. Mr. Marcus said DEP is looking for them to come up with a restoration plan in the Hawley Brook watershed within 100' of the stream. Willson stated restoration for the forested wetland and for Riverfront can be combined. Mr. Marcus stated the NOI has no mitigation plan, but now we're talking about it, and they are willing to mitigate 2:1 for the permanent impacts.

Ziomek stated another location for mitigation could be the old coal pile area where there may be contamination entering the brook. Angus asked about the schedule. Mr. Benito said they wanted to get the Con Com's ideas and feedback and will take that to DEP, then will return with a more robust plan. Mr. Marcus stated a 401 Water Quality Cert will be required and in that case they would ask the Commission to leave the hearing open until received Water Quality Cert conditions.

Pat Wagner, abutter – Mitchell property, stated that UMASS had a landfill that was contaminating the brook. She is concerned if there will be any disturbance of that landfill from this work. Mr. Marcus pointed out on the plan where the work will be done. Mr. Wagner pointed out the location of the dump, he put it in when he worked for the University. Mr. Benito stated the only disturbance in that area is installation of the poles, only 6 feet deep, where fiber optic line has already dug up that area. Angus asked if UMASS knew any history of the area, Ms. Brushan said she would look into it. Angus asked if there is an erosion control plan. Mr. Marcus stated there is a draft SWPP he will provide. He added that NUSCO has a profile plan that he will provide that shows they are working within the existing contours not re-grading the land.

Mr. ZZZ (member of public) stated that trees take up water, where will the water go after the clearing. Mr. Benito stated that the area for the new ROW is already partially cleared for the fiber optic line. Mr. ZZZ asked if there is damage to agricultural land will UMASS fix it. Mr. Benito stated that the agricultural land he is aware of is Mitchel and Wysoki. Angus stated that we need to keep the discussion to what is jurisdictional to the Commission. Mr. Benito added once permitting is done and they are into construction they have a team who works with abutters to meet their concerns.

Angus stated recommendations from the Con Com seem to be we like the restoration idea in Riverfront along Hawley Brook, not in favor of area near pond. Ziomek added removal of invasives around pond doesn't seem valuable. He added looking at the area around the small trib to the Hawley near the old coal pile area. Mr. Marcus stated they would like to continue until next mtg. (2/26) to report on mtg with DEP and come up with plan.

Boice moved and Brooks seconded. Commission VOTED (5-0-0, Healey left mtg) to continue the public hearing until 8:00 pm on 2/26/14. Applicant agreed to continue to time and date specified.

Miscellaneous Untimed Items:

- Vote on regulation changes – application fees

Walker moved and Brooks seconded. Commission VOTED (5-0-0, Healey left mtg.) to approve the changes to the regulations regarding application fee increases.

- Topics not reasonably anticipated 48 hours prior to the meeting.

ADJOURNMENT

VOTED unanimously to adjourn the open meeting at 9:35 p.m.