

**MINUTES**

**CALL TO ORDER**

Meeting called to order by Mr. Walker, Vice Chair at 7:00 p.m.

**ATTENDANCE**

Present: Todd Walker, Harvey Allen, Paris Boice, Christiane Healey, Robert Brooks

Absent: Briony Angus

Staff: David Ziomek, Beth Willson

Others: Jack Hirsch, Karen Merrill, Cinda Jones, Ali & Matt ???, Jennifer Fish, Carmen Ageloni, Danielle Valente? & Jessica Lynch, David King

**COMMENTS FROM CHAIR, DIRECTOR'S & WETLAND ADM'S REPORTS**

DZ: There are important CPA articles coming up at tonight's Town Meeting SE St purchase – 5 acres + 17 acres off Potwine Lane. Hopefully, TM will support those purchases. Paris & DZ will have to leave early to attend the TM.

Mike Andrews, Asst. Land Manager left for work in Idaho, close to hiring replacement, to start June 3.

BW & Brad interviewed candidates for summer trail crew – poised to offer those positions to start Memorial Day.

Big fundraiser - PP Pancake Breakfast coming up - June 1 from 8:00 – 12:00

Grant from DCR – able to get new kiosk designed and installed at PP. use to post updates about PP, rules & regs. Have a used kiosk that we will use at Amethyst Brook to post the signs regarding dog regulations, as the signs are constantly being vandalized/stolen. Hopefully, this will make it more difficult to remove the signs.

Ali & Matt **last name?**: They are in the process of purchasing barn and house at Sycamore Stables on Station Rd. lease the land. Intend to continue using the farm as a training & boarding facility – intend to use best land practices. Work with conservation & other resources to treat it as well as it can be – want to develop lease agreement for use. DZ: Called attention to the riding arena which is actually on cons land. We do not own the building, but we own the land under the building. Not all of the cons requirements of the prop have been upheld over the years – will talk about drainage, manure management proposals, potentially diff pasturing arrangements, vernal pools to call attention to, hear a little bit more about how they see the improvements happening on the farm. NRCS need to be involved to come up with a plan for the future mgmt. – manure, storm water runoff, parking, etc. NRCS farm plan for the prop makes a lot of sense.

**CONSERVATION COMMISSION'S ACTION**

**Town Meeting Warrant Article 43, Proposed Purchase of Conservation Restriction on Cowl's Property (Map 5A, Parcels 84, 91 & 96)**

Jack Hirsch: Save Historic Cushman: Purchasing the CR on this land goes along with most of the planning that the cons open space & rec docu emphasizes. One of the large parcels that will help with conductive with other cons land around it. Very unique in its features. One map – topo shows that it is really rough and has a lot of interesting rock outcroppings – believes it is a pretty unique feature in

Amherst. Presented last time feel this would be a valuable piece of prop for CR and could really it will enhance Amh Cons land

**Jeremy ?:** wildlife biologist wants to talk about the effect on the habitat of the salamanders.

Jeremy: Building on the map provided by Jack and the water that flows downhill from the site, it is fairly steep. One of the main concerns is that this is not a conservation/environmentally friendly design for the development. You have the potential for a lot of runoff to head downhill into Hawley Swamp at the bottom of the hill, which is where the spotted salamanders breed. In discussions with the developer they took great pains to say how much they were going to avoid upland areas where the salamanders are in the summer, they adult habitat, they avoided building on that area, but that is only one part of the picture.. You have to take into account all the runoff that will run down, is going to feed right into this swamp. When you add over 700 vehicles into the parking area, when you add road salt, oils from the cars and fertilizer from the green space, you will have a potentially catastrophic situation in the wetland, even though it is not part of the property that they are building on. At the pond, you are going to have a pot catastrophic sit if salamanders can't breed, they are going to die out. These areas are not state listed, they are not a federally identified species – but there is an identity with that location for these animals. It is an important concern. Recreational opportunities – because of this location and because of the unique features, and the Robert Frost trail and all the trail systems that are there, this is not just a local area that only those that adjoin the property and abutters use. We have lots of cars that park on the street and they enter the site from the Robert Frost trail. I think we will lose a valuable recreation spot that's kind of a nice “secret” area that a lot of people do know about and enjoy and come down and enjoy.

Jack Hirsch: Also a double edged sword – because one of the aspects of the OSRP is talking about having conservation areas in different neighborhoods so that people can walk and use them rather than drive in cars and pollute when they go to use them. I also wanted to finish on what I think is kind of an ironic note, I was glad to hear Dave Ziomek mention the June 1<sup>st</sup> Puffer's Pond fundraiser, we've been publicizing that. But PP is close by as is Atkins Res, I think both of those are plots of **land ???** those are going to be severely affected. It is really ironic to hear Dave Ziomek talk about buying local, and having local food and local sustainable stuff at the Puffer's Pond Breakfast Fundraiser, but we are importing an Athens, GA development company to come in to do the planning for the use of this land. It makes more sense for Amherst to plan how they want to use this land.

**Britt: Question about land in Chapter 61A?**

61

61A – isn't it private property? Little confused when I hear about people using the land. Is that something that Cowls has been - people have gotten used to and appreciate, but it is not necessarily...

**If the Town bought the land.**

Couple ways to look at it – if nothing is there and if people just use the land, they can develop Rights of way – Cowls has put up signs

2<sup>nd</sup> - Property taxes have been tremendously reduced – essentially citizens have been paying for this land all along.

Dave Ziomek: finds the conversation awkward. In all fairness and transparency, we all know that the owner of the property is sitting in the 3<sup>rd</sup> row. In the 25 years he's been involved with land conservation he has only be involved with one Chapter 61 right of first refusal project. He encourages Cons Com moving forward, as you listen to presentations from all sides of this complex issue – he hopes and asks that we be respectful of everyone's rights – owners, developers, etc. Want to be very respectful of the owner's rights on this prop. The Cowls family has been incredibly generous thru the years to opening

up their land to hiking, hunting fishing and a whole range of outdoor activities. Any discussion, when we don't have a willing seller, it can be uncomfortable. In the years that Cons Com has been working to preserve land, by and large they talk about willing sellers. So, we need to be very respectful and very careful about what rights we are talking about here. He understands that Article 43 is a complicated article.

He also wanted to note that the Open Space and Recreation Plan (OSRP), like the Master Plan, is a guide that the Conservation Commission developed with staff and citizen input – it is a guide for the future of the current conservation land and agriculture land and also as a guide for acquisition moving forward. Amherst has been one of the most aggressive in the valley in protecting land. We have over 2,000 acres of land protected for conservation including 80 miles of trails and 2,000 acres of protected agriculture land; in addition we have 3,000 acres protected for watershed. This is a guide, it is not an absolute document – it is a fluid document that gets updated every 5-7 years. We also need to be careful when we talk about priorities – what are the priorities of the Town in terms of open space and recreation land. There are lists of criteria in land conservation that one uses to decide what lands are to be protected. *Lost to coughing...*

Britt: When we got the assessment from the Town Counsel – she doesn't remember anything being mentioned about this being an eminent domain taking, and yet that's what she is reading in this Article 43. Would have a very different perspective on the issue if I thought Art 43 was an eminent domain taking vs what she thought it was, based on Town Counsel assessment. *Lost last words...*

Walker: It mentions eminent domain, but TC said this is not a binding article. He has a problem with the fact that they are talking about a non-binding article with a seller that does not want to sell and a purchaser that does not have money to buy the land.

DZ: The Hitchcock Center for the Environment is working to create a plan based on the science of the salamander tunnels and migrations. Ted Watt, a naturalist and ecologist at HCE, is developing a proposal to present to the owner and the developer that looks at the slope the upland area and what would need to be protected in the upland area to preserve that population of salamanders that use *Lost last words*...Encourage you to look for that work to come out in coming weeks and months.

Also call your attention to the Town process – Cowls provided an official notice to the town on their intent to remove the property from chapter– this 1<sup>st</sup> was rejected and so a 2<sup>nd</sup> notice was presented w/2<sup>nd</sup> purchase & sale agreement. At this time TC is reviewing and there will be a response to the owners coming soon. So there is a Town process that is happening in regards to the notice and right of first refusal. At the current price, if that is a bona fide offer and if it is a real market price, I want everyone to be aware that 6.5 m dollars is far and away a project that is so large compared to any project Town has ever undertaking – for any land cons project. It is important to put it into perspective – whether 6.5 is the ultimate price or something more or less, this is a very valuable piece of property. And it is not going to be purchased by anyone for less than the fair market value. Because you are the petitioners, can you explain more about the article? I think we understand the intent of your effort, but can you talk about the article. Because the article is very specific, it is fairly narrowly worded and it includes a number that is confusing. I don't understand what the dollar figure means in the article. As we now, that number can't go up on the floor of TM it can only go down. So what does the 1 million plus mean and what does the article mean to you the petitioner?

Jack Hirsch: Quite honestly we were under the gun. We learned on Feb 22 what was going on and the deadline for getting a petition art to Town Meeting was very shortly after that and we had no idea what the land was worth. So we tried to do *???* envelope calculations based on things like the Brushy Mountain deal and some other land that we had an idea what the value was and then quite frankly we

doubled that because this is Amherst and we recognize that this is valuable property. Clearly the asking price is much higher than that. The Town is not obligated to pay anything more than 30% of the \$1.2 m which is what our article asks for. We have pledged in the article to look for grants and agencies and to do fundraising, which we have already done to try to bridge the gap between the asking price and the amount that the Town pays. We have gotten a favorable review from CPA for funding. We feel that is a good start. We have had feelers from some other agencies –some positive and some negative, but we are working on it. We feel that there is another aspect, a way to at least partially fund this, if not bridge the gap. If we buy a conservation restriction res on the land we can put 70% of it in conservation and the State will allow us to develop 30% of the land – which is approximately 45 acres, which is not an insignificant development. That development could be planned according to the needs of the citizens of Amherst. We are not opposed to development we understand there is a housing crunch; if it were a mixed use housing or elder housing or something that was in the character of the neighborhood we would welcome that. We also feel that this is excessive and is not in the character of the neighborhood. That would allow Amherst to participate in the planning and come up with something that actually satisfy its needs. We could bank the land for a period of time and come up with a plan and come up with something that everyone can be proud of. This development is going to destroy the land and we will be stuck with it forever and who knows what will happen in the future.

**Jeremy?:** In regards to your comment about being respectful. I think we are being respectful in our approach and I very much appreciate the efforts of the Cows there are a lot of people that access their prop and it is because of that people are so pass about this location I think that what you are seeing is, as Jack mentioned, we received a letter in the mail in Feb, that said by the way, we are building this in your backyard. You have a whole community of people that have come together and Working thru TM and other established mechanisms trying to influence the decision, because they see as Jack says, this is as being extremely detrimental not only to the environment, but to the Town itself, to the village of Cushman and surrounding areas. So we are working thru the established channels to get our voices heard by the Town to try to influence...

Jack Hirsch: wanted to clarify eminent domain aspect of it - eminent domain is one of many ways that the art suggests that the land can be taken, it does not imply that it should be taken that way. However, there are a number of situations where eminent domain is favorable to the municipality. It clears the title so the Town, or the taker, doesn't have to worry about encumbrances on the land in lawsuits. Then the purchase price is the fair mark value – the buy-sell agreement is still valid, it is just a way to clear the title for the municipality. It is just one aspect. The other is that very often there can be friendly eminent domain takings. We were told by Kestrel Trust that was one of the aspects for the Brushy Mountain deal.

DZ: Need to be careful, about – just moments ago, you received a favor rev from CPA. The process by the TOA is that open space projects come thru the Conservation Commission to the CPA Committee, so again, I would caution you about saying that you have a favorable review from the CPA Committee, I think is not accurate.

Jack Hirsch: We presented to them and they encouraged us to come back.

DZ: They listened, but there is a full process that would take about a year if anything related to this project came forward.

I want to get back to the number, because really what you are asking the CC to focus on is Article 43 and we all understand the concerns out in Cushman. I grew up in Amherst and I know that area probably better than most people in the room perhaps, having lived here most of my life. What does Article 43 accomplish with the dollar figure you have in there? I don't understand the \$1.2m. It doesn't

have a place, there is nothing anchoring it – there is no appraisal, there is no willing seller. If the current offer is \$6.5m the CR would be worth between \$4.5m and \$6m is my guesstimate. So the \$1.2m seems as if this article is symbolic. I don't understand from a practical standpoint, what it means, what it would do, what would it give the Town the ability to do relative to the money? What would the \$1.2m buy? It wouldn't buy anything. There is no link between the dollar figure in the article and the fair market value of the land. Even the FMV of the CR is 3 x \$1.2 m.

Jack Hirsch: Sometimes you have to go on principle. And the principle of the article is that we really want to preserve this land. We did the best that we could in that situation. I think Buying a CR on the land is the right thing to do, I think that we will work very hard to try to come up with the funding to bridge that gap. Very often there are a lot of naysayers before something happens. There are a lot of people that are disbelievers until you actually come forward and show them that it is possible.

DZ: Is it possible that this article is premature and it should be brought to the Fall TM when more is known, whether there is a willing seller, when there is a value on x, would make more sense?

Karen Merrill – Save Historic Cushman: it might help us buy a little bit of time and also insert TM into the process of the right of first refusal ....and to bring TM into that process to see what the voice of the Town was in that process as well. Not purely symbolic, but to bring a rep to TM and to say that We want the SB to embrace this period of right of first refusal so that we can work with people like you and the CC in thinking about some solutions and you would be our likely ally in terms of thinking about this very important piece of land. How can we maintain some of this openness and not destroy it with this development and come up with some kind of solution that will also bring in some revenue.

DZ: Did the SB or FC take a position?

TW: They voted against it. Asked if Cinda wanted to speak.

Cinda Jones: Happy to speak and also happy to sit and listen. I provided a memo or I am happy just listen or respond. Every year we have a conversation w/DZ (Pete W prior) and reconfirm that this is an annual permissive use, they have been nervous about having named trails on their land because people feel ownership and bad things happen when we've done that. It is hard hearing how this has ripened into entitlement and fighting over their future change of use of the land. What she has always feared when having trails on their land. That's why we moved the MM trail. It doesn't bode well for future public use of private property, if changes of use by the owner are fought. We don't have to leave the land open to public rec, but we want to. Like sharing the asset with the community. The most important message she can give, is to correct another point – the price that was offered, they never had to say what the change of use was going to be. They could have just said they had an offer from a developers that wanted to build housing but she felt very strongly that she want to be honest and straight forward – weren't going to do anything subversive. Seemed like the right thing to do to say what they were going to do and why. The bottom line is that development can enable conservation and conservation can enable development. She believes in smart growth and a balance between cons & development. It (the development) will be built in a smaller sub-division with a special permit – the developers want to keep it as small as possible and to preserve the salamander habitat as much as practicable.

Christiane Healy: practical value of Article 43 doesn't seem to be ..... I get the symbolic part, price is not reasonable given what Cowls can get for it. Worried in the long run.... Not sure I can support this article because Cowls has an offer for so much more. Could encourage and open up the conversation with the Town.

DZ : If the article were to pass, it doesn't compel the Town to do anything. Nothing legally binding mechanism.

PB: What if we don't recommend this # is off. Does it die there or does this group try to continue to work with you and Cows?

TW/DZ: Will continue to work on an agreement.

Jeremy?: The dollar amount is not a symbolic number plucked out of the air. In order to come up with fair market value, you look for other similar parcels of land that have sold within a certain amount of time and come up with a formula, which is what we did. Frankly, there are not many other comparable parcels to compare this with. A new point then, I think that we are keeping on a dangerous precedent. You are basically saying that \$6.5m is a lot of money and we've never dealt with this kind of money before, so therefore we can't interject in this in any way. Therefore in the future any big company or big business that comes in and swamps the market with big bucks might be able to have the same affect.

CH: That is not what I am saying.

Jeremy ?: It is not what you said, I'm not putting words in your mouth, but that's what I see is happening. Potentially with big business, the company indicated that this is a \$55m project – which is big bucks and who is to say that now these things in the future aren't going to go the way of big business. Which I feel is a dangerous precedent.

JH: Confused – thought the CC was concerned about conserving the land and would balance conserving the land and what was put on it and what will happen to it. This is sounding much more like the finance committee.

LB: This is part of the problem that I am having. I don't have enough info about this project yet to really inform my decision. I think we are talking like this because it is a confusing and complicated subject and there isn't a lot of known facts.

TW: Let's note that we are being asked to vote on Art 43 tonight. That is what is known.

LB: So we are being asked to vote, so do we need to vote?

TW: They would like to have a motion to either support or to not support Article 43.

CH: This is about support or not. That is the question - do we support this or not. We don't make it happen.

TW: Exactly, that is what is we are talking about here, so we need a motion either way. If you are ready to vote on this.

**Speaker - Brooks???:** Appreciate the situation of the residents of No Amherst what they are facing – however, there are finite resources,  
Not looking at an area of high conservation  
We can't protect every – his personal opinion that this piece of prop doesn't warrant the sup of the cc.

TW: Is that a motion?

?? No, I don't know what it is.

CH: I am still not sure. Is she conserving a large parcel of land that is not fragmented?

?: Yes

CH: I would support that. Am I going to rate this parcel higher than other parcels, I don't know.

PB: Large area of land – it is forested, great to preserve it. But I think the conversation needs to continue. I think this is premature, I could support conserving the land, but it doesn't feel that at this point that it works.

LB: I make a motion that we do not support.

HA: 2<sup>nd</sup>

JH: Can you recommend an alternative to preserve this land?

Speaker? Partly about cons the land, but also protecting the community from a very inappropriate development.

TW: That's not what we are talking about. We are just voting on a very specific thing – are we going to support article 43?

CH: Worried that if we aren't supporting it then we aren't supporting ..... the area.

TW: We can certainly work with them to provide guidance going forward. I live in No Am, I Run, hike, mountain bike & have hunted that property, I like that prop I am certainly not eager to see this either, obviously, but can't support the Art 43 the way it is written either..

???: the SB will take a position one way or another. I suggest you take no position.

TW: they have already

DZ: This is a citizen petition, the petitioners are asking CC to take a position.

CH: prefer to we take no position?

LB: I will modify the motion that the CC take no position on Article 43

CH: 2<sup>nd</sup>

Cinda: I ask you to take a position not only on 43 but pursuing options towards the project. Because this is the most reasonable site available. From the cons perspective – I have land parcels and I am trying to figure out what is most appropriate for each of them. If Cushman parcel is off the table, they are not going away, they are going to go to a different parcel. They will go to the parcel around Cherry Hill Golf Course and Pulpit Hill and I believe that is a less desirable conservation spot. You are not going to get rid of the problem. If you are the Conservation Commission your job is to decide where something happens and where it doesn't. I would warn you that the #2 option you are going to like less than the #1 option. I think you should take a position against.

CH: I hear you, but I don't have that info.

TW: Again, we are talking about a very narrow thing tonight –we are talking about this article.

**Lindsey moved and Healey seconded.**

**Commission VOTED unanimously (6-0-0) to take no position on Article 43.**

\*Dave Ziomek, Paris Boice & Robert Brooks left the meeting to attend Town Meeting.

**Presentation – Department of Conservation & Recreation on the Forest Cutting Practices Act and how it relates to the Wetlands Protection Act**

Background - Violations were reported to DEP. So they did a site visit - 7 foresters – Brad, Bob, 2 from Cows and 3 from DCR walked the northern part of the property – the general area where the pictures were taken. Aside from one stream crossing they did not find any violations of the wetlands protection act. They have one year from cutting to remove any temporary stream crossing. There were no violations, no enforcement order, but Beth asked Cows to clean up one area and an upstream area – seemed like a lot of debris, may have been a little bit of a slash. Wanted to avoid any other people walking through and making complaints, so Cows has indicated that they have cleaned up those areas.

Jennifer Fish – Director, Service Forestry, DCR and Carmen Ageloni – Forester for Amherst came before the Commission to answer questions about the Cutting Practices Act and gave a brief presentation to the CC.

The purpose of the Forest Cutting Practices Act goes back to the 1940's. It was put into place over concern with overharvesting during WWII and the 1938 hurricane. Idea was to rehabilitate from over harvesting & from the hurricane to maintain & protect both public and private interests of the Commonwealth. Chapter 132 covers not only private lands, but all of the state land in Mass. The idea behind it is to conserve water, prevent floods and soil erosion, to improve conditions for wildlife and recreation, protect and improve air quality and to provide a continuous and increased supply of wood products.

64% of Mass is forested - 2.2 million private forest acres and 500,000 acres of public forest land.

CH: How is forested defined?

JF: It is defined by number of trees per acre. Anything from a seedling/sapling forest to mature forest.

TW: How many trees per acre.

JF: 7 and 1/16 percent basal area – basically one tree ever few thousand feet. Remember this came from this time of reforestation. Just coming back from being farmed, etc.

HA: Noted that Cows stepped up in 1938 to buy the trees (damaged in the hurricane) and the farmers said why not take the land with it.

JF: That's how the State got a lot of their land as well.

JF: Chap 132 is an exemption to the Wetlands Protection Act. Applies when a cutting plan is filed with their office, when the wetlands are properly identified and when the land is devoted to forest growth –

the concept this will remain forested. & a copy of the plan is sent to the CC. They have to faithfully execute the plan.

BW: When a cutting plan comes to the CC it is just for review. She hands it over to Brad, since he is a forester and out in the field and inspects cuttings.

CA: If you have any questions, please call.

HA: How close to a cold water stream can they cut?

JF: Can cut right to the stream – a guideline to leave any trees along the banks and have to leave a certain # of trees – 50' filter strip.

HA: Concerned with shading the water.

JF: Rough equation to 50% of the trees w/in that 50 feet and must be evenly distributed

TW: Include saplings?

JF: Over-story trees.

HA: Salamanders – do you know how far do they travel from the vernal pools?

JF: Remembering 2,100 feet for Jefferson or Blue Spotted.

JF: When does a cutting plan come into play? It is for commercial harvesting – which is considered 25,000 board feet or 6 tri-axle trucks or 50 cords. If it is under 25,000' board feet & there are wetlands involved, they can either go before the CC or file a cutting plan. Land must be devoted to forest growth.

What a cutting plan doesn't cover – clearance of main of right of ways, maintenance of pasture, clearing land for ag, non-commercial use of a land owner (land owner can be harvesting 30,000 board feet to turn into siding for their bar, personal use fire wood) and the clearing of land for change of land use. In the regulations it talks about there having to be permits in place, we also take into acct what is happening on the land – if we are seeing perc tests, for sale signs or delineation flagging, these are a lot of red flags to us. This is where we need a lot of communication between Service Forestry & the Commission. We get into gray areas, we all know development is going to happen, but how imminent is it? Town often knows things that we don't.

### **Land owner has certain responsibilities –**

- Must send copy of cutting plan to DCR and a copy to the town so that CC & DCR has simultaneous review period.
- Notify the abutters w/in 200 ft of the harvest that is not separated by a publicly maintained way, abutter notification is for boundary lines;
- Must post certificate rec'd when plan is approved - near the road where very visible
- Notify DCR of the job being complete.
- Landowner or landowner's agent that has the responsibility for following the law.

### **DCR Role:**

- When they receive a plan – they check the Natural Heritage atlas, and if it falls w/in polygon send to Natural Heritage for review. If property is also under a current use plan, they look at the management plan to see if the cutting plan matches with what they said they were going to do on the prop
- Field check of all cutting plans
- Address any questions the Conservation Commission may have
- Take action on the plan – either approve or disapprove. Issue certificate.
- Field checks along the way – the more wetlands or sensitive the site, the more they try to be out there.
- Final inspection

TW: Does someone actually do a final inspection on all these cutting plans? Imagines it can't be more than 10 or 20%.

JF: When someone calls and request, they are required to do a final inspection. If a site is very sensitive, and have been following closely, they do those and the rest is catch as catch can.

### **Role of Conservation Commission**

- 10 day official formal comment period
- Need the landowner's permission to enter land.
- Call DCR whenever you have questions or concerns
- Request site visit
- Review the plans
- Let DCR know of any activity on the land that you might have concerns about

TW had questions about the slash that is left behind and wondered about standards for slash. From an aesthetic standpoint, slash is an issue, from an environmental standpoint it is a very good thing, as it leaves nutrients and provides cover & habitat for wildlife. They do have slash laws – have to deal with slash w/in a particular manner boundary lines near roads, to minimize fire hazard. Softwood slash cannot be w/in the boundary line. Can't be near a road. Hardwood slash has to be very close to the ground. W/in center of the lot – it the law is very vague it just says dealt with to min fire danger. They Consider that to be roughly less than 4' high, nothing sticking up in other trees to create a ladder. No large piles. Can't be w/in 25' of a stream – for flooding purposes & nutrient loading. More of a general guideline.

## **PERMITS/CERTIFICATES**

**Notice of Intent** – Town of Amherst DPW for sanitary sewer and water main improvements within buffer zone of bordering vegetated wetlands along Harkness Road and Wildflower Drive.

- Opened the public hearing at 8:00 p.m.

Danielle Valente? & Jessica Lynch

JL: CDM Smith – hired by the Town of Amherst to design the Harkness Road & Wildflower Drive Phase I sewer improvements and water improvements project. The project is proposed due to water quality issues and failing sewer septic systems in the area. 1<sup>st</sup> phase – Wildflower Drive, Larkspur Rd, Ladyslipper, Teaberry Road, Woodlot Road, Woodlot Road Extension, Harkness Road and & Stony Brook. Part of the project is also a pump station at 330 Harkness Rd. All of the work in the roadway is in 100 ft buffer zone, except for small portion of Harkness Road, which is in the 25 ft no build zone – in the roadway. Culverts to be protected in position. Project to be paid for by the water sewer enterprise fund. Remainder of project - Phase II to come next year.

**D?:** All proposed sewer and water work is within roadway; there is ~570 linear feet of water main as well as 1,980 linear feet .... buffer zone of sewer - approx. 379 ft of that sewer is w/in the 25 ft no build zone, so asking for a variance. The pump station is at 330 Harkness Road that will include ~7,700 sf of .....

- Mitigation measures – along the route w/in buffer zone & 25' is silt fence & straw bales
- If dewatering necessary – w/in trenches
- Stockpiled soils will be fenced/straw bales
- Stormdrain inland protection
- Spill control measures
- Erosion control blankets on the slope

BW: Silt fence is the limit of the work.

TW: Turnaround time – how long do you have trenches open?

D: Depends on the contractor, soil conditions, depth. Contractor wants to get it done as fast as possible.

*Impossible to hear... too many side conversations and paper rustling!*

The public had questions about noise that will be generated by the pump station. CDM indicated that it is enclosed, will have noise dampening insulation and is surrounded by a chain link fence with plantings around the building to dampen the noise. The vent on the generator also has noise dampening insulation. Generator is used during power outages, so it doesn't run very often. Harvey asked why this pump station will be surrounded by fencing. Because this one has a propane tank and not natural gas lines which are buried, it necessary to enclose it.

BW: She had some issues with 2<sup>nd</sup> culvert – if there are major changes, it will affect the CC's review. Questioned where the vernal pool is – on the Pelham side.

Since half of the project is in Pelham, CDM will meet with the Pelham Cons Com and then come back to the Amherst Conservation Commission to work out the order of conditions. CDM and Beth feel that they should work with Pelham so that the conditions are similar for both Towns. Beth will create a boiler plate set of conditions that they can use when talking with Pelham.

Applicants agreed to have the hearing continued to June 12, 2013 at 7:30 p.m. until after their meeting with the Pelham Conservation Commission.

**Healey moved and Britt seconded.**

Commission **VOTED** unanimously (6-0-0) to continue the hearing to June 12, 2013 at 7:30 PM.

Approved at the March 26, 2014 Conservation Commission Meeting

## **MISCELLANEOUS UNTIMED ITEMS:**

### ➤ **Use of Puffer's Pond by Boys & Girls Club of Brattleboro**

Dave Z want to inform the CC that he has given the Boys & Girls Club of Brattleboro the okay to use Puffer's Pond as the event is not taking place a Puffer's Pond, it is a bike race from Brattleboro and the riders will just stop there for a little while.

### ➤ **Leverett Road**

Issue at the Kittredge property on Leverett Road – they have put in a skating rink (approximately 100 x 100 ft) near the trail and wetlands – they have already graded and seeded the area and have 40 ft high pile of sandy loam on one side of the wetlands – major erosion potential. In response they have put up a silt fence and will keep it vegetated. They did not file for the skating rink, but thought that it was included in their filing for the ski slope. Beth will check the files, but Todd & Harvey don't remember taking any action on the ski slope nor do they remember them filing for the ski slope. Either they did it before coming before the CC or they didn't need to.

### ➤ **Owens Pond**

EHB & Natural Heritage went back and for the over whether to clean out the wetland area. NH thought it would do more damage. DEP, EHB, WMECo and Beth went out – used a plan that DEP had used in other areas. 4" or more that's where they want them to remove it, even then NH felt that vegetation was coming through. But Beth et al were able to show them areas where the sediment was 10" deep. First week of work, they (Sumco) had an excavator that was much too big and they hit clay and the excavator sank 10 ft down! Wagner Wood pulled it out – they spent a whole day cleaning the ex, but they left a huge hole and left clay all over. They rebuilt the berms and made them a lot deeper and put in metal sheet going down 20' at the edge of the water and will be putting concrete on top of the metal sheets. Bird boxes are up and some are inhabited, turtle basking ledges are being used by many turtles.

### ➤ **Orchard Hill Pond Mowing**

CH walked the area where the disk golf course was put in and noticed trees that were planted and thought they were in the 50 ft buffer zone and they had mowed so close to the pond that they left nothing along the edge of the pond. Beth will talk with Pamela Monn at UMass Physical Plant. Todd suggested that they put up flags so they know where to stop mowing.

Harvey noted that they need bog bridges on the other side, where the trail comes in along the road, as they are flooded.

### **Ag Learning Center**

UM project on No Pl St – old farm, slowly moving ahead with it. There is Wetland and stream right through this property, it does fall under ag exemption. Their reaction to Beth was we know what the regulations are and we know when they have to file and will let you know. Beth approached them - interested in Ag Learning Center because interested in what they are teaching and that modern farming should include knowledge of what we've learned about the benefits of wetlands to the environment in the past 50 yrs. Just another project out there – where they don't feel they have to do anything because they have an ag exemption.

### **Certificate of Compliance – Amherst Montessori School**

Site inspection, bldg. insp there and Town Engineer, Jason Skeels – looked at the drainage there. They have met every req of the order of conditions.

### **Healy moved and Britt seconded.**

Commission **VOTED** unanimously (\*4-0-0) to issue a certificate of compliance for the Amherst Montessori School.

(\*Boice & Brooks did not vote, as they had left to attend Town Meeting)

### ➤ **Application for Research on Conservation Land – David King**

David King of USFS Northern Research Station at UMass submitted an application requesting permission to conduct a research project on Town conservation land – Harkness, Larch Hill, Lower Fort River, Lower Mill River, Mount Castor, Plum Spring, Salem Street and Wildwood. The proposed project is to determine wood thrush nesting success and post-fledgling survival in suburban and forested landscapes. The purpose of the project is to compare potential and actual nest predator communities, nest and fledgling survival and fledgling habitat selection in suburban and forested landscapes. The results will be used to make recommendations for conservation strategies to accommodate forest birds in suburban and forested landscapes.

### **Healy moved and Britt seconded.**

Commission **VOTED** unanimously (\*4-0-0) to approve the request to conduct research on Conservation Land to determine wood thrush nesting success and post-fledgling survival in suburban and forested landscapes.

(\*Boice & Brooks did not vote, as they left to attend Town Meeting)

### **ADJOURNMENT**

**VOTED** unanimously to adjourn the open meeting at 9:30 p.m.