

**Conservation Commission Meeting
September 28, 2016
Town Room, Amherst Town Hall**

MINUTES

CALL TO ORDER

Meeting called to order by Ms. Angus, Chair at 7:00 p.m.

ATTENDANCE

Present: Angus, Boice, Allen, Clark, Brooks

Staff: Ziomek, Willson

CHAIR, DIRECTOR & WETLANDS ADM REPORTS

Willson reminded Commission of Hitchcock Ctr opening event 9/29 at 5-6:30pm for all staff and boards/committees that worked on the project. They are having a community wide celebration on Saturday. Willson went to Lot 44 at UMASS solar project, swale not in place yet she requested additional erosion control. Conservation staff started work at Markerts Pond, removed debris and excavated around culvert and have ordered new outflow structure. Ziomek stated we'll see if new flow structure results in the pond filling, we may need to also look at flow into the pond and what might be limiting it.

Ziomek presented data showing demand/use of drinking water during drought. Data showed decrease in demand following issuance of mandatory use restrictions. Some peaks when students came back. Want to be below 3 million gallons per day. Recently took Atkins Reservoir off-line, so only using groundwater wells. Pelham Reservoirs also off-line over the summer, this is standard every summer, will go back on-line in November. Town working with Colleges, businesses, and residents discussing uses that can be reduced. Amazing to see within days of restrictions being in place a reduction of up to 800,000 gallons. Atkins reservoir only 40% full.

MINUTES

No minutes to review.

PERMITS/DISCUSSIONS

7:15 PM Informal Discussion – Carol Gray for Bluebird Meadow Conservation Area interpretive trail signs.

Carol Gray stated there are five signs, three are 3'X2', one is the kiosk 4'X8', and one is 3'X1.5' - the

Approved at the 9-13-17 Conservation Commission Mtg

one along the Norwottuck Rail Trail. She presented the signs on the overhead. Commissioners all have access to the Dropbox folder where the signs are and should review and edit there. Angus asked how the signs will be mounted. Gray said on a single pedestal, the framing company is Fossil Graphics. Willson said staff has done a preliminary review of the signs and commented in the Dropbox folder but are still reviewing. She stated the trail has been mowed. Angus stated folks should provide comments on the signs either through Dropbox or hard copy to Beth who will compile the comments by next meeting. Gray to email photos of rock slabs for benches to Ziomek.

No vote.

7:30 PM Request for Determination – Christopher & Robin Young for construction of a walking trail and bridge within buffer zone to bordering vegetated wetlands at 867 North Pleasant St. (Map 8A, Parcel 71).

Christopher Young stated this is my Eagle Scout project. The project is constructing a walking trail and walking bridge from the church to the neighboring property to the north. Since last meeting has taken more measurements and revised plans. The trail will be 150-175' total with a 22' bridge completely spanning the wetlands. He added Chuck Dauchy came back out and further flagged the wetland. Angus asked how bridge will be constructed. Young stated the bridge will be put together off-site then placed over the stream by hand. Willson provided photos of site visit. No trees will be removed just some shrubs to clear for trail. Willson said Dauchy added some wetland points to the Bank flagging he had done previously. Young stated bridge will simply sit on cinder blocks. Work will be done this fall.

Boice moved and Brooks seconded. Commission VOTED (5-0-0) to close the public meeting and issue a Negative 2 Determination with the condition that straw bales are placed downstream during construction and have Wetlands Administrator inspect erosion control prior to construction.

7:45 PM Request for Determination – Paul Cole for jurisdictional status of two streams at 1194 West St. (Map 25B, Parcel 29).

Tom Reidy, Bacon & Wilson, asked if Amherst has adopted the “Mullins Rule” where board and committee members can review minutes of a meeting they didn't attend and still vote on the project. Angus replied yes. Willson provided chronology of previous filings for this property for background. Reidy stated he's legal counsel for Paul Cole, property owner who is seeking legal status of the two streams on site. Reidy went through the chronology with the Commission. Chuck Dauchy, Wetland Scientist, showed the stream locations on the overhead. He stated neither stream is shown on the USGS map and both have watersheds less than 0.5 square miles. Therefore, under the state regulations they are considered intermittent. Under the Town regulations a “river” is any naturally flowing body of water that flows throughout the year. The Town regulations have a 200' setback but regs don't directly say Riverfront. He stated the northerly stream also includes stormwater drainage from Upper Orchard subdivision, water so it's not a “naturally” flowing stream.

Angus said so the request is to determine if the two streams are intermittent or perennial under the state WPA, and then under the bylaw, and if under the bylaw they are determined perennial then does a Riverfront, as defined in the Rivers Protection Act, exist. Angus stated it may be helpful for the Commission to spend some time reviewing the information presented during the previous filing and court hearing. Boice and Brooks agreed, Brooks stated the judge previously ruled for the Commission back then to take into account the records/documents from the public and he feels the Commission needs to do that again now. Angus stated the past determination of the streams status has expired, so right now they are just streams. Allen stated all the streams that run off the mountain run year round. Dauchy said to make that statement someone would have to document they're running every day for one year. Boice stated that although the northern stream is substantially fed by stormwater water, that subdivision has been in existence for 35 years so although you say it's not "natural" it functions as a perennial stream, especially once it gets on the eastern side of Rte 116.

Angus read the state regulations regarding stream status determination to the Commission. Dauchy reminded the Commission that previously the state determined these streams to be intermittent based on their method. Willson added if the Commission is going to take into account what the state decided it needs to take into account what a previous Commission decided which was perennial under the bylaw. Angus stated it sounds like the Commission would like the opportunity to review some of the historical documents from the previous court case.

Ron Jacque, abutter, stated there was water flowing in the streams today, and as dry as it was this summer the farmer using the land was using the southern stream to irrigate. Not sure if that was allowed during a draught. He's never seen those streams run dry and they provide habitat, wildlife should be looked at as part of the determination.

Marty Epstein, abutter, stated she owns the parcel to the NE with the pond. Her late father was very involved in the previous court case to get the streams determined perennial. Her understanding was that it came down the fact that the streams flow constantly all year long. Her parents provided their observations because they walked the land every day for 55 years. The streams have not changed, so since they were determined perennial before they still are even during our current drought. They feed the downstream ecosystems including her pond.

Allen Meneely, 1184 West St., stated part of the northern stream flows onto his property. He doesn't observe it every day but he's out there a lot and never seen it dry. The water is clear and disperses into wetland, he's never seen it go dry and he's been there eight years.

Angus asked how does the Commission want to review the previous information? Boice said electronically is fine. Angus asked if they could review it by next mtg. Commission said yes. In addition to reviewing historical documents is there anything else the Commission wants the applicant to provide? Commission said no. Ziomek added if a member of the public would like to see the documents contact Beth. Reidy stated he recommended the Commission to review back to the initial determination that the streams were intermittent so you get all of the history.

Brooks moved and Boice seconded. Commission VOTED (5-0-0) to continue the hearing to

Thursday, October 13 at 7:30pm.

8:00 PM Enforcement Order cont'd from 9/14/16 mtg) - Eversource Energy for filling of an intermittent stream bank off Henry St. (Map 6A, Parcel 91).

Boice introduced the project stated there are three options on the table right now for mitigation. Kate, Tighe & Bond, stated they got unit prices for the different parts of the salamander tunnel repair and got an overall cost. Eversource doesn't feel comfortable with doing the installation of the tunnels for liability reasons including long term maintenance. The three options are: 1) They are willing to buy the materials (\$25K) or write a check to the Town or the Hitchcock Ctr for the materials as well as giving a donation (\$25) to the Town. 2) \$25 K for tunnel and \$30K to Conservation Dept. 3) Providing \$30 K to Conservation Dept and do restoration plantings around stream channel that was impacted.

Devleena Ghosh-Brower, Eversource, stated they have been monitoring the stream weekly and after rain events and the erosion control is working and vegetation is coming back. Willson asked about the difference between options 1 & 2, one is \$50K and two is \$55K. Ghosh-Brower said the only difference is number one could include Eversource buying the materials, the numbers are wrong it should be a total of \$55K (25K for tunnels, \$30K for Conservation Dept.). Brooks asked what the restoration plan would entail. Kate, T&B, stated the slopes next to the stream has revegetated naturally and the restoration would include further plantings of herbaceous and woody shrubs to enhance habitat and provide shading. Ghosh-Brower added previously the slopes were mostly glossy buckthorn so planting these natives will improve the habitat.

Willson asked the folks from Hitchcock which option they would prefer (have the materials bought by Eversource or not). Ted Watt responded Hitchcock has not capacity to store the materials. He thought the monetary option would work better for them. Clark asked how would the money be held. Ziomek responded it would be put in a restricted fund through the Town accounting dept restricted only for use with repairs/replacement of the salamander tunnels. Ziomek added the Town would be willing to help via Town staff time and equipment for smaller portions of the work. For the 30K to the Town there are a whole host of conservation projects that could benefit from those funds.

Willson stated the mitigation choice will be summarized in Enforcement Order #4 which will state that once the check from Eversource is received the enforcement is closed. Eversource does not need to come to another meeting.

Allen moved and Brooks seconded. Commission VOTED (4-0-1, Angus recused) to issue Enforcement Order #4 summarizing decision on mitigation package.

Miscellaneous Untimed Items:

- Review CPAC Plan

Boice asked if the Commission had any comments or questions on the draft CPAC plan that had been provided to them electronically. No comments.

Brooks moved and Clark seconded. Commission VOTED (4-0-0, Angus left) to approve the language in the draft CPAC Plan having to do with Open Space.

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

Adjournment

Voted unanimously to adjourn the open meeting at 9:00 PM.