

Minutes of the Ashburnham Conservation Commission

July 16, 2012 (Special date- only July meeting)

Present: MD: Marshall Dennis, Chairman

CP: Christopher Picone

AA: Alana Archangelo

6:30 PM MD opened the meeting of the Ashburnham Conservation Commission under the MA Wetland Protection Act, M.G.L. Chapter 131, Section 40, and in accordance with the Ashburnham Wetland Protection Bylaw and associated Rules and Regulations.

6:33 PM MD opened the public hearing for **Terrence O'Callaghan of 42 Hilltop Drive** pertaining to the reconstruction of a single family home within the 100 foot buffer zone of Lake Watatic. Mr. O'Callaghan was present as was the property owner, **Joan Ficarra**. The Commission decided there would be no need for proposed hay bales; instead just leave the dug in silt fence that is already in place. There was some confusion as to what the plan was proposing as the title of the plan was regarding a new onsite sewage disposal system, which was out of the buffer zone. Mr. O'Callaghan requested changing the terminology on the map referencing hay bales and inserting terminology referencing silt fencing so as to avoid the cost of going back to the engineers to draft a new plan. The Commission also initialed these revisions on the plan.

MD- Motion to close the public hearing for 42 Hilltop Drive

CP- Seconded

Unanimously passed 3-0

MD- Motion to approve said plan for reconstruction of a single family home

CP- Seconded

Unanimously passed 3-0

The Commission signed the Order of Conditions DEP # 092-0870

6:55 PM MD opened the public hearing for a Request for Determination of Applicability for **Daniel Kuchta of 13 Holt Road** pertaining to the upgrade of a septic system for an existing house within the 100 foot buffer zone to a stream. **Tim Gearin** was present, representing Mr. Kuchta. Mr. Gearin expressed concern about the hearing as he had already started the project and thought all of the permits were issued. No abutters had

complained and the project is near completion. After reviewing the plans MD told him that the DA would have a condition that all activity will remain away from the down gradient from the topographic high point and the culvert going beneath Holt Rd. MD also reminded Mr. Gearin that there is a ten business day waiting period once the Determination of Applicability was issued where no work is to be done at the site

MD- Motion to close the public hearing for 13 Holt Road

CP- Seconded

Unanimously passed 3-0

MD- Motion to issue the Determination of Applicability for the upgrade of the septic system

CP- Seconded

Unanimously passed 3-0

#### **Other Business:**

- **Tom Smolinsky was present, representing Lower Naukeag Lake Association** regarding the lake drawdown. Each year the lake has difficulties reaching the desired drawdown level before it freezes. It is fed by two lakes so the drawdown always takes longer than other lakes in town. The association would like to begin drawing down the levels starting October 15 instead of the state guideline date of November 1. Mr. Smolinsky reported that there are some lakes in Western Massachusetts that are part of a pilot program where the drawdown begins in October. The Commission on previous occasions asked the association to get written permission from the state saying they would be allowed to begin their drawdown before November 1. Mr. Smolinsky provided the Commission with copies of an email from Laila Parker from Massachusetts Department of Fish and Game/Division of Ecological Restoration stating that the Conservation Commission “has jurisdiction to set dam operational requirements in an Order of Conditions, which can include specifics such as the start date of a drawdown.” The Commission, though sympathetic to the Association, is reluctant to issue said drawdown date changes as it opens up the possibility for lawsuits. Ms. Parker’s email addresses that concern, “I can’t speak as to the likelihood of the town being sued for not following the guidance to the letter.” MD asked Mr. Smolinsky about the number of boards the dam contains (five) and why they only take out four. Mr. Smolinsky said there was a concern that removing the final board would cause leaks. AA asked Mr.

Smolinsky if he could find out how the lakes in Western Massachusetts got to be involved in the October 15 drawdown study and perhaps Lower Naukeag could be included with it in the study. Mr. Smolinsky provided the Commission with drawdown data from 2008-2011 and noted the only reason the desired drawdown level was reached in 2011 was because the lake didn't freeze over until December 19, when historically it freezes over by the first week of December.

- MD passed out the biannual Conflict of Interest Law for Municipal Employees so members could take the online assessment and turn in the certificate to the Town Hall stating they had passed it.

7:47 PM MD- Motion to adjourn

AA- Seconded

Unanimously passed 3-0

Respectfully submitted by Alana Archangelo, Member

August 12, 2012