

Office of the

CONSERVATION COMMISSION

Town of Townsend,
272 Main Street
Townsend, Massachusetts 01469



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**Approved Minutes
Selectmen's Chambers
Memorial Hall**

Wednesday, May 27, 2015 @ 7:00 P.M.

1.0 Preliminaries

1.1. Open Meeting – Co-Chairman Emily Norton (EN) opened the hearing at 7:06 pm

1.2. Roll Call – Co-Chairman Emily Norton (EN), Veronica Kell (VK), John Hussey (JH) and Christine Vitale (CV) were present. Co-Chairman James Deroian (JD) arrived at 7:29 pm, and Jennifer Pettit (JP) arrived at 7:50 pm. Conservation Agent Leslie Gabrilka (LG) was present.

1.3 Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting

3.6 Discuss conduct of meetings

4.7 Bluebird boxes at Squannacook Meadows

4.8 Planning Board Special Permit: Locke Brook Run OSMD

4.9 Office of the Attorney General response to Karen Hill, Gardner, MA, re: Open Meeting Law Complaint

VK motioned to add the above-listed items, seconded by CV, all in favor.

1.4 Chair's Report – EN reported that she spoke with Jeremiah Thompson in Senator Elizabeth Warren's office about Tennessee Gas Pipeline's proposed Northeast Direct pipeline. Senator Warren agreed to forward a letter to the Federal Energy Regulatory Commission (FERC) with a cover letter that these are concerns of constituents about the FERC process, asking that FERC respond to these concerns.

1.5 Administrator/Agent Report – LG reported that she sent an email to Russ Cohen, MA Division of Ecological Restoration, about walking the Squannacook River again in preparation for a work crew to clear obstacles.

1.6 Review of Minutes (5/13/15) – The Commission tabled the 5/13/15 draft minutes until the next meeting.

2.0 Hearings and Appointments

2.1 7:30 Appointment with Janet Morrison, North County Land Trust -

VK read a letter from Eugene Benson, Executive Director of the Massachusetts Association of Conservation Commissions regarding Kinder Morgan. She felt that it was not a good to meet with them to discuss the route, while JD thought that it would be better to meet with them. JH felt that when the government says it is going to go through, it's too late to take any action, so the best thing

to do is work with them. When they get their certificate, nothing can be done, but it will be very important to have someone watch the construction. CV concurred that we should have a dialogue with Kinder Morgan at this point.

EN pointed out that she and LG had drafted a letter to FERC regarding Townsend's concerns, and it was one of only 15 letters that FERC specifically told Kinder Morgan to address.

EN introduced Janet Morrison, who is the Executive Director of the North County Land Trust. Ms. Morrison said that her Land Trust has worked with 14 communities, and she would like to offer her assistance to Townsend as well. There are 57 properties that would be affected if the proposed pipeline goes through. She said that Article 97 protection would be the best thing that homeowners could do to protect their land. She offered to help write conservation restrictions for anyone who is interested.

VK said that the Townsend Conservation Land Trust met with Kinder Morgan's land agent Phil Chipman to hear Kinder Morgan's request to survey on the Land Trust's property. It is not protected by Article 97. She said that the Land Trust did not want to negotiate with Mr. Chipman because they could then put the pipeline on private property or on the Brooks Crossing open space.

Ms. Morrison said that while she wanted to keep the lines of communication open, she would prefer to stop it altogether if possible. She asked how many Article 97 properties the pipeline would have to cross in Townsend. People should try and put up as many roadblocks in the path as possible. She suggested that individuals contact the Attorney General's office to enforce or uphold the protection of Article 97. She also gave the Commission a copy of the BioMap, a plan of the proposed lateral and a list of affected parcels. JH asked what would happen to your Conservation Restriction (CR) if the pipeline goes through your property. Ms. Morrison responded that it would be a taking and you would be paid the value of the CR. They look at it more closely than property without a CR.

The Commission thanked Ms. Morrison for coming to the meeting and for her input regarding the proposed pipeline.

2.2 8:00 Request for Determination of Applicability (TWB #2015-86)

Applicant: M & K Grandview Farm

Location: Lot 2, Townsend Hill Rd.

Project: to determine whether the construction of a single family house is subject to the Massachusetts Wetlands Protection Act and the Townsend Wetlands Bylaw

EN opened the public meeting at 8:08 pm. VK read the legal notice. Stan Dillis, Ducharme and Dillis, represented the applicant, who was not present. He reviewed the history of the project for the Commission. It had been divided into 3 lots in a difficult configuration. He redrew the lot lines so that now there are two lots. There was a wetland delineation on the original three lots that had never been reviewed by the Commission. Under the new configuration, Ducharme and Dillis removed a few wetland flags, resulting in all of the proposed work being completely outside the buffer zone. He augured the soils at the two points where they propose to remove the wetland flags and found non hydric soils. They were working on the site in late October, so not much vegetation was present.

The lot has been sold and the backyard will now be in the buffer zone. The original plan submitted by Ducharme and Dillis would have kept all disturbance out of the buffer zone if the Commission confirmed the revised delineation. The second revised plan will now keep everything outside the 50' no build buffer zone. LG and Mr. Dillis went to the site yesterday and agreed that the soils were not hydric soils. However, LG noted that there appeared to be enough wetland vegetation to

question the area that Mr. Dillis had been unable to consider last October. She suggested that Ducharme and Dillis provide DEP BVW delineation sheets for the areas in question.

JD motioned that Ducharme and Dillis do the plots on both points that they propose to remove, both inside and outside the old delineation, seconded by JH, all in favor.

VK motioned to continue the meeting to Wednesday, June 10, 2015 at 7:30 pm, seconded by JD, all in favor.

2.3 8:15 Request for Determination of Applicability (TWB #2015-87)

Applicant: Justin Kauppi

Location: Highland St entrance to Old Meetinghouse Park

Project: the proposed Eagle Scout project is to determine whether the construction of a 150' x 2' boardwalk is subject to the Wetlands Protection Act or Townsend Wetlands Bylaw.

EN opened the public meeting at 8:33 pm. JH motioned to waive the local filing fee under the Townsend Wetlands Bylaw, seconded by JD, all in favor.

VK read the legal notice. Justin Kauppi presented his Eagle project, which was a project in Old Meetinghouse Park for the Commission. He described the area, which is wet with wetland vegetation. LG explained that the Townsend Highway Department routes the stormwater runoff from Wallace Hill Road north of Highland St, down the south side of Highland St, behind the house just east of the entrance to the Park, and then lets it sheet flow down gradient behind the house and across the entrance to the Park. While dry in the summer and fall, it is very wet in the spring. There is also a lot of poison ivy and briars, so it's difficult for families with young children to get through.

Due to needing to meet accessibility requirements, Justin will build a boardwalk 4' wide and 70' long to cross a section of the area. The Commission discussed the fact that it was stormwater that caused the wetland and that a boardwalk crossing this section of the entrance was for the common good. The Commission agreed to approve the project as it was proposed for the common good. The Commission thanked Justin for his efforts to build the boardwalk.

JH motioned to issue a Negative #2 because it was for the common good, seconded by JP, all in favor. JH motioned to close the meeting, seconded by JD, all in favor.

2.4 8:30 Continuation Request for Determination of Applicability (TWB #2015-84)

Applicant: Kristopher D. Klein

Location: 56 Brookline Rd.

Project: proposed construction of a 14 x 20 ft. shed within the 100 ft. buffer zone of a Bordering Vegetated Wetland

EN reopened the public meeting at 8:50 pm. Kristopher Klein was present, as well as his family and friends. EN asked Kristopher Klein if he had come up with a method since the last meeting to prevent erosion due to stormwater coming off the roof of the proposed shed to protect the wetland down the slope from his shed. Mr. Klein said that he did not have any stormwater management ideas to offer. He gave EN a copy of the Zoning Board of Appeals decision regarding a special permit for earth removal on the property, which said that there were no wetlands on the site. It did require hay bales and silt fence for erosion control. The wetland is on the abutting property and begins at the outlet of the culvert under the tennis courts. The wetland is on property owned by the North Middlesex Regional School District.

LG asked if he would not consider installing the gutter and dry well that his father had offered as a solution when he came in the office. Kristopher Klein did not want to install any stormwater measures.

Kevin Smith, North End Rd, approached the table to discuss his Zoning Board of Appeals filing to remove the fill from the property when he tore down the house. He said that he did not remember if he had filed with the Conservation Commission. EN told Kristopher Klein that the Commission was trying to help him prevent a possible issue with sediment eroding into the wetland. Gary Shepherd, Deputy Fire Chief, Old Meetinghouses Road, interjected that the Commission was not trying to help him.

After much discussion, Mr. Klein stated that he was withdrawing his application. He said that he would put the shed on the lawn, and move it later. By placing it there he would be exempt from filing as LG had initially advised him. Gary Shepherd jumped up and told him not to withdraw his application.

JD motioned to vote on the project. EN asked if Kristopher Klein if he was sure that he wanted to withdraw his application, which he confirmed. EN said the Commission should not vote since he withdrew his application.

VK motioned to close the meeting, seconded by JP, with VK, JP, CV and EN voting yes, and JD and JH voting no. The meeting was closed and the Klein's proceeded to walk out of the room.

At this point Gary Shepherd began to complain that the Commission didn't know anything, and loudly berated EN. She asked him to stop, and he replied that he would not stop, but rather got up and stood right next to EN, continuing to loudly berate her and LG. EN again asked him to stop, but JD said to let him have his say. EN said that she would have to call the police. LG got out her cell phone, but Mr. Shepherd offered to do that for the Commission, and sat down and called the Communications Center. The situation continued. Mr. Shepherd finally left the room. JP recused herself from the meeting and went out as well in order to be able to speak to the police when they arrived. LG then also recused herself and went with JP so that she would not be alone when the police arrived. EN left the room and JD left the room.

The Commission recessed at approximately 9:10 pm. JD reopened the meeting at 9:21 pm.

3.0 Work Session

- 3.1 Discuss "Welcome to Townsend" letter to new homeowners** – EN and LG had discussed putting together a "Welcome to Townsend" letter to let new residents know about wetlands and permitting. LG said that Town Clerk Kathy Spofford was interested in adding to it as well. VK motioned for LG to begin the letter, drafting 2 or 3 paragraphs from the Conservation Commission, seconded by CV, all in favor.
- 3.2 Update status of 75 Barker Hill Road (DEP #308-563)** – LG discussed the status of the property.
- 3.3 Possible vote on Request for Certificate of Compliance for DEP #308-404, 2 Sauna Row Rd** – tabled.
- 3.4 Discuss site visit for Phases I and II, Coppersmith Way** – LG will ask for dates for a site visit with applicant Carter Scott will be available, and email the Commission to arrange a site visit.
- 3.5 Discuss volunteer responses** – JD had called and asked volunteer Heather Hampson to attend. She said she was the department head for the Conservation Commission in Littleton, and does the same for Lancaster as office manager. She does minutes for 6 different board meetings a month. JH motioned to appoint Heather Hampson to the Commission, seconded by JD. JP commented that she was not prepared to vote tonight, not knowing that the Commission would be interviewing

potential members, and so was hesitant to vote tonight. Other volunteers had been coming to meetings and were interested in the position. Ms. Hampson said she has worked for 4 towns. She missed working in the field. CV had no comment. VK said that she agreed with JP in that she would like to have all of the candidates present to interview. JH disagreed, saying that Heather has experience with Conservation Commissions. JP commented that Stephen Marshall had been appointed because he had attended many meetings. She said that resident Pat Jemiolo had also attended many meetings and has worked to protect wetlands and threatened species habitat on Adams's land from OHVs. She has communicated with the Commission, Townsend police and the MA Environmental Police Officers. EN agreed with JP and VK in that all of the volunteers should be invited. Ms. Hampson said she had not attended meetings because she had not had an email reply from LG about the Commission's meetings. LG replied that in fact she had emailed her a reply, and also that the meetings are posted on the web site.

JH's motion was on the floor. JH, JD and CV voted yes, and JP, VK and EN voted no. The motion did not pass. VK motioned to appoint Pat Jemiolo to the Commission, there was no second. The motion failed. JH said the motion regarding Heather Hampson would go to the Board of Selectmen.

3.6 Discuss conduct at meetings – EN said that before she joined the Conservation Commission there was a lot of difficulty. She said that she had attempted to establish rules for the meetings so that they would be held respectfully. She felt that they are now once again out of hand both at meetings and on site walks.

EN said that some members tried to get her in trouble based on her work with wildlife. She reviewed the matter of the statement about what EN was doing that former member Stephen Marshall and JD wanted in the minutes when Mr. Marshall had just joined the Commission. He accused her publicly of doing something illegal and JD had agreed.

EN stated that JD told her that it was he who came up with the idea that she was doing something illegal. He criticized her bringing a camera on site visits. He told Commissioners that they should not look at adjacent properties on a site visit, even if they see a violation. JH said that EN should have made a general public announcement that she held a license to work with wildlife. JD stated that he would have loved to see EN get arrested.

EN said that according to Robert's Rules, members of a board should speak to each other respectfully. She proposed that the Commission make a formal agreement that members will not interrupt each other. EN said she thought we needed a motion, and JH responded that he did not think we should have a formal policy because what would the consequences be. EN asked for a motion, but there was no response. She suggested that when meetings get out of hand, that they recess until Commissioners can calm down. EN continued, saying that disagreeing with each other is fine, but nastiness and ridicule are not acceptable.

VK asked rhetorically, why are we all here? We are here to protect wetlands. For instance, there is nothing wrong with the Commission asking someone to put stormwater measures on a large shed on a slope up gradient of a wetland. She said that the Commission was not asking for an engineered system. She also said that applicants are not customers, but rather people proposing to do work in a buffer zone who need to do the right thing. If we are not here to protect the wetlands, then there is a problem with the Commission. If we are all here to protect the wetlands, these problems would not be happening.

JD asked the Commissioners what idea they thought the Commission left Kristopher Klein with in terms of what he needed to do to get approval for his shed. CV replied she thought that he was

going to look at DEP's website for roof runoff suggestions or talk to roofers, but not come back here with his posse. JP said that she expected he would come back with a sketch of how he was going to keep runoff from going down to the wetland. VK concurred with JP's statement. LG said he was to provide some type of erosion control. She said that she had spoken to his father, former Townsend Fire Chief Donald Klein when he came in to the office to discuss why the Commission was asking his son to treat stormwater runoff, and what the Commission was asking of him. She had explained that the Commission needed to see some kind of stormwater treatment because he wanted to put the shed with an impervious surface on a slope up gradient of a wetland. She had explained to him, just as the Commission explained to Kristopher Klein at the first meeting, that the Commission could not design a system for an applicant. If the measures did not work, and sediment eroded into the wetland, the applicant would blame the Commission/town. In the office Donald Klein had suggested a gutter draining into a dry well to LG, which would be inexpensive to install. LG said that would be fine. She had expected that Kristopher Klein would suggest that at the continuation meeting earlier this evening.

JH said that if the shed was on gravel, it would go right through, but it would not if the soil was clay based. He said it was sand and gravel, so stormwater measures were not necessary. JH also said that erosion controls would not have been necessary for the proposed six sonotubes. JD and JH had visited the site with Donald Klein independently of the Commission without notifying the Commission, as they missed the Commission site walk.

JP said that sand and gravel washes down the slope at Squannacook Meadows. If you have an impervious surface, and a torrential downpour, it can cause erosion. However, the Commission can't make recommendations. If the Commission had advised him to put in a gravel trench and it did not work, the Commission would be condemned. She had suggested that Kristopher speak with someone at the lumber store where he purchases his supplies for an idea on how to treat it.

VK said it was incumbent upon the Conservation Commission to not ignore a violation that they see inadvertently on a site walk. She learned that at one of her Massachusetts Association of Conservation Commission workshops. JP said that she had called the MACC and was told by Michele Girard that of course the board is expected to deal with the issue, and that is what the MACC teaches in Conservation Commission trainings.

4.0 Correspondence

- 4.1 BOS Memo: Appointments for FY16** – tabled until the next meeting.
- 4.2 Copy of letter via Town Clerk from Karen Hill, Gardner, MA to Townsend Conservation Commission under MA Public Records Request** – tabled until the next meeting.
- 4.3 Copy of letter via Town Clerk from Karen Hill, Gardner, MA to Townsend Conservation Commission under MA Public Records Request** – tabled until the next meeting.
- 4.4 Copy of letter via Town Clerk from Karen Hill, Gardner, MA to Townsend Conservation Commission under MA Public Records Request** – tabled until the next meeting.
- 4.5 Copy of letter via Town Clerk from Karen Hill, Gardner, MA to Townsend Conservation Commission/Land Use under MA Public Records Request.** – tabled until the next meeting.
- 4.6 Copy of response from Commonwealth of MA, Office of the Attorney General to Karen Hill, Gardner, MA re: complaint filed with the Townsend Conservation Commission**
- 4.7 Bluebird boxes at Squannacook Meadows** – EN discussed the request from Gary Sirois, a resident of Townsend who would like to place bluebird boxes at Squannacook Meadows. She said that the Townsend Ashby Youth Soccer Association (TAYSA) had asked her to let them know ahead of time if something would be occurring there that might affect the soccer program.

5/27/15 approved minutes

JH motioned to have Gary Sirois notify the Conservation Commission and Board of Selectmen before placing bluebird boxes so that EN can notify TAYSA, seconded by CV. Discussion continued, and EN motioned to amend the motion that Mr. Sirois will send information to the Conservation Commission and Board of Selectmen on the proper placement of the boxes, seconded by CV, all in favor.

4.8 Planning Board Special Permit: Locke Brook Run OSMD – tabled until the next meeting.

4.9 Office of the Attorney General response to Karen Hill, Gardner, MA, re: Open Meeting Law Complaint – tabled until the next meeting.

5.0 Items for discussion at the next meeting - none

6.0 Advertisements and Conferences

7.0 Next meeting – Wednesday, June 10, 2015 at 7:00 pm

8.0 Adjournment – JD motioned to adjourn, seconded by JH, all in favor.

Minutes respectfully submitted by Leslie W. Gabriliska