



Office of the

## CONSERVATION COMMISSION

Town of Townsend,  
272 Main Street  
Townsend, Massachusetts 01469

**James Deroian, Co-Chairman**

**Veronica Kell, Clerk**

**John Hussey**

Leslie W. Gabrilkska,

*Conservation Agent*

**Emily Norton, Co-Chairman**

**Jennifer Pettit**

**Christine Vitale**

*office* 978-597-1700, ext. 1739

*fax* 978-597-1835

**Executive Session Minutes**  
**Selectmen's Chambers**  
**Memorial Hall**  
**Wednesday, June 10, 2015 @ 7:00 P.M.**

**3.1 Executive Session for the purposes of discussing strategy with respect to litigation** –The Commission discussed tabling the Executive Session until July 8, 2015. See 4.9

**4.9 Copy of Superseding Order of Conditions: Karen Hill, Lot 3, Boutelle Road**

At 8:55 pm, VK motioned to go into Executive Session to discuss 4.9 for the purposes of discussing strategy with respect to litigation, and then to return to the open meeting to continue the agenda items, seconded by CV, JD – yes, JH – yes, CV – yes, VK – yes, JP – yes, all in favor. The tape recorder was turned off.

The Commission discussed whether or not to appeal the Superseding Order of Conditions (SOOC) issued by DEP. Many members of the current Commission were not on the board at the time of the hearings, so they did not hear the information nor visit the site. LG reviewed the case for the Commission, pointing out that the basis for the denial was under the bylaw, not the Wetlands Protection Act. She presented the three different plans presented by Michael Turgeon, Turgeon Environmental Services, Townsend, for Karen Hill. All of the plans have a large section of the driveway in the 35' no disturb buffer zone and are very close to the wetland, an intermittent stream. These are Outstanding Resource Waters in the ACEC. She said that the ANR lot lines had been drawn with full knowledge that they would have to get the Commission to waive the regulations in order to permit the driveway.

LG explained that DEP does not have a "no disturb" buffer zone, so it was not likely that they would have upheld the Commission's denial under the Act. Similarly, LG advised the Commission that if the Commission appealed the SOOC, DEP would again not likely uphold the Commission's appeal. However, DEP has no role in the denial under the bylaw, and that is where the Commission has the best chance of upholding its decision to deny the alteration of the 35' no disturb buffer zone and to protect the Townsend Wetlands Bylaw regulations.

JH motioned not to appeal the Superseding Order.

The Commission continued the discussion. Trees that would have to be removed from the 35' naturally vegetated buffer zone as well as from the area between the 35' no disturb and 50' no build buffer zones. They also discussed the impact of snow plowing every winter, including the concern that snowplow drivers would have to push snow into the wetland because of the extensive length of the driveway along the stream with nowhere else for the snow to go. Every winter the gravel from the driveway would be pushed in as well.

VK said that there was a spring on her property, which is up gradient of Karen Hill's property at Lot 3, Boutelle Rd. There is also an easement on her property to allow the abutting neighbors, the Wests, to access the spring. She said that the spring feeds the pond on the West's property.

LG reviewed the chain of events leading up to the Superseding Order. After the Commission denied the Order of Conditions, MaryAnne DiPinto from DEP's Central Region came out to visit the site. Karen Hill would not allow the Commission to walk on the property with Ms. DiPinto. Consequently Ms. DiPinto then met on Boutelle Rd with the Commission, Michael Turgeon and interested parties to listen to their concerns. Subsequently, a meeting was proposed between all of the parties with the thought that maybe a compromise could be reached; however, the meeting never took place because there was no alternative proposed that would not impact the town's wetland bylaw regulation. LG said it was her understanding that Ms. DiPinto revisited the site this past spring to make sure that nothing had changed; however, the Commission was not notified or invited to attend the DEP site visit.

The Commission addressed JH's motion on the table, which was seconded by CV, with a yes vote meaning not to appeal the Superseding Order, CV – yes, JH – yes, VK – yes, JP – yes, JD – yes, all in favor. The Commission will not appeal the SOOC.

VK motioned for LG to write to DEP clarifying DEP's statement regarding a compromise, noting that no additional plans were presented to the board, seconded by JP, all in favor.

At 11:02 pm, JH motioned to adjourn from Executive Session and return to open meeting, seconded by VK, with JH voting yes, VK – yes, JP – yes, CV – yes, JD – yes, all in favor. The Commission returned to open meeting.

Minutes respectfully submitted by Leslie W. Gabriliska