



Office of the

CONSERVATION COMMISSION

Town of Townsend,
272 Main Street
Townsend, Massachusetts 01469

James Deroian, Chairman

Heather Hampson, Clerk

John Hussey

Leslie W. Gabriliska,

Conservation Agent

Christine Vitale

Veronica Kell, Vice-Chairman

Jennifer Pettit

Michael Turgeon

office 978-597-1700, ext. 1739

fax 978-597-1835

Minutes

Selectmen's Chambers

Memorial Hall

Wednesday, September 23, 2015 @ 7:30 P.M.

1.0 Preliminaries

1.1. Open Meeting – Chairman James Deroian opened the meeting at 7:32 pm

1.2. Roll Call – Chairman James Deroian (JD), Veronica Kell (VK), Heather Hampson (HH), John Hussey (JH), Christine Vitale (CV) and Michael Turgeon (MT) were present. Jennifer Pettit (JP) arrived at 7:40 pm. Agent Leslie Gabriliska (LG) was present.

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

2.4 Appointment with Herbert Alamed, 9 Riverbank Terrace, re: deck on bank of Squannacook River

LG reported that Mr. Alamed had cancelled his appointment.

4.8 Copy of letter to Karen Hill from the Attorney General re: Open Meeting Law complaint.

VK motioned to add 4.8 to the agenda, seconded by CV, with all voting yes with the exception of MT, who abstained.

1.4 Chair's Report – JD discussed his concern about the unauthorized deck at 7-9 Riverbank Terrace. He reviewed the fact that the owners originally had a deck and stairs going down to the river, and the Commission had agreed that the deck and stairs must be removed. LG had sent them an Enforcement Order. The deck is now at the top of the bank and nailed to the trees, and was placed there without a permit. The Commission directed LG to send them another letter by certified mail, advising them that the deck must be removed.

1.5 Administrator/Agent Report – LG updated the Commission on the Association of Massachusetts Wetland Scientists workshop she attended concerning inland streams. She also provided her agent report. Additional comments provided during the meeting.

1.6 Review of Minutes (5/27/15, 8/5/15, 9/09/15)

VK motioned to approve the 8/05/15 minutes as revised, seconded by JP, with VK, JP, CV, JD, and JH voting yes, and MT and HH abstaining. The motion passed.

HH motioned to approve the 9/09/15 minutes as revised, seconded by MT, all in favor.

VK motioned to accept the minutes of 5/27/15 as written, with the exception of removing all references to Michael Turgeon, seconded by JP, with JD, JH, JP, VK and CV voting yes, and HH and MT abstaining.

2.0 Hearings and Appointments

2.1 7:45 Notice of Intent (DEP #308-630)

Applicant: Townsend Highway Department

Location: on the section of the section of Old Meetinghouse Road located off of South Row and South Harbor Roads.

Project: The proposed project is to replace the culvert at the Bixby Brook crossing on Old Meetinghouse Road.

JD opened the hearing at 7:50 pm. HH read the legal notice, checked the abutter notifications and reported that all was in order. LG reported that NHESP would be issuing their letter that should note that there are no issues under the Wetlands Protection Act, but that the Highway Department needs to pay the MESA filing fee. LG will work with David Paulson at NHESP to develop the plan needed under MESA.

Dept. Ed Kukkula, Highway Superintendent, presented the project. Weston & Sampson was awarded the contract for the culvert replacement. Mr. Kukkula noted that the roadway will be 1 foot higher than it is currently built because Bixby Brook floods over the roadway. They hope to complete the project in one day in order to minimize the impact to the residents on the other side of Old Meetinghouse Road.

MT said that he had concerns about the Notice of Intent, including unclear depictions of impacts to bvw, bank, land under water, bordering land subject to flooding and floodplain elevations. There were also issues with floodplain calculations and compensatory storage. He suggested filing as a Limited Project, in which case the Commission could waive requirements associated with performance standards that are normally waived for culvert replacements when necessary. He was also concerned about changes to flow characteristics associated with the increased capacity of the box culvert. LG noted that she had discussed meeting the Massachusetts Stream Crossing Standards with Weston and Sampson, including the possibility of using an open bottom box culvert. MT offered to meet with Mr. Kukkula to go over his concerns with the NOI. Mr. Kukkula said that he did not expect to complete the project this year, so he agreed to continue the meeting to the end of October.

Diana Newell questioned the security of the steel plate that the Highway Department has installed over the crossing, and Mr. Kukkula responded that the 3/4" steel plate could support a 30,000 lb. vehicle.

HH motioned to continue the hearing to Wednesday, October 28, 2015 at 7:45 pm., seconded by VK, all in favor.

2.2 8:15 Continuation Abbreviated Notice of Resource Area Delineation (DEP #308-628)

Applicant: B & C Associates, Inc.

Location: 48 Clement Rd

Project: The application is for approval of the proposed delineation of wetland resources on the property

JD reopened the hearing at 8:20 pm. JJ motioned to continue the hearing to October 14, 2015 at 8:30 pm, seconded by VK, all in favor.

2.3 Appointment with Carolyn Smart, Selectmen, re: Squannacook River work project – Mrs.

Smart told the Commission that people are interested in helping to clear some of the obstacles from the river in order to make it easier to paddle, and they feel that now is the time since the river is so low. LG reviewed the status of the project. She had walked the river with Russ Cohen (MA Division of Ecological Restoration) and Pat Huckery (MADFW), taking notes and photographs of each obstruction and a description of how to best handle the material. Russ Cohen has since retired and is not participating in this kind of activity any longer.

LG then followed up with Beth Lambert (DER), who checked with Tim Purinton (DER), who said that Mr. Cohen was the only one with that expertise who could help. Mr. Cohen suggested she talk to Ranger Chuck Arning at NPS (Blackstone River Valley National Heritage Corridor) and he was also unable to help, but did give me some good tips on possible medical issues and strongly recommended that we use only volunteers with chainsaw certifications because of liability. Mr. Arning suggested that she call Matt Amadon, Supervisor at Willard Brook, who also was unable to help, primarily because he works for a different state agency - DCR. She then asked NHESP if she could get permission to go ahead if Ms. Huckery would be able to supervise, and NHESP agreed to that plan. She is waiting to hear whether Ms. Huckery is able to do so. LG will also ask Al Futterman, NRWA, to assist, as he has indicated a strong interest in the past in participating. LG will probably also need to get an extension for the permit, which expires on 10/15/15. She also briefly explained some of the wildlife habitat concerns.

Mrs. Smart and the Commission discussed the chainsaw liability concern. Mrs. Smart said that she would check with Town Counsel to see if it is something the Commission needs to consider. VK suggested that a liability waiver be drafted for volunteers to sign. Mrs. Smart commented that the waivers do not carry any legal weight, but she offered to get a liability waiver from Town Counsel. JD said that he would be able to evaluate volunteers' abilities with the equipment.

LG will continue to try to get approval for the project

2.4 Appointment with Herbert Alamed, 9 Riverbank Terrace, re: deck on bank of

Squannacook River – LG reported that Mr. Alamed left a voice message on the office telephone at about 6:20 that he would be unable to attend. The Commission discussed the presence of an unpermitted deck on the bank of the Squannacook River and in Riverfront Area. Furthermore, the deck had been nailed to the trees on the bank. The Commission agreed that LG should contact the homeowner by certified mail to advise them that it must be removed.

3.0 Work Session

3.1 Vote and sign bill payable

3.1.1 Commissioners to attend the MACC Fall Conference, *Wetlands Replication and Restoration on October 17th at Devens Common Center, Devens, MA* – CV motioned to authorize the above-referenced payment for VK, CV, JD, and JH to attend the conference, seconded by JH, all in favor.

3.1.2 Commissioners' annual subscriptions to the MACC's online Handbook for Conservation Commissioners, 10th edition – CV motioned to authorize the above-referenced payment of \$15.00 for the office at this point, seconded by JH, all in favor. LG will determine what account to use for this expense and notify the Commission.

3.1.3 LG to attend the Assoc. of Mass Wetland Scientists workshop: *Inland Streams: The Latest "Must Know" Regulations & Science* - CV motioned to authorize the above-referenced payment for the class, which LG attended, seconded by JH, all in favor.

3.2 Discuss revising the Townsend Wetlands Bylaw and its regulations, to include plan submission requirements, minimum size of Townsend Wetland Bylaw jurisdictional isolated wetlands, and Bylaw methodology of designating wetlands

The Commission discussed the following requirements that should be on all plans submitted to the Commission:

1. 50' No Build buffer zone
2. HH suggested requiring that plans must be highlighted in colors to depict the wetland, buffer zones, Riverfront Area, Floodplain and all other jurisdictional areas.
3. HH also suggested that applicants must provide a .pdf of the Notice of Intent, ANRAD or, RDA and accompanying plans

MT also suggested the following changes:

1. The regulations should require hydrology as well as vegetation in determining a wetland. He did not feel that wetlands should be determined by vegetation alone as has been allowed under the Townsend Wetlands bylaw regulations.
2. There should be a minimum size requirement for an isolated wetland that does not provide vernal pool habitat to be jurisdictional under the bylaw, and for discussion purposes, he suggested a 40' x 50', or 2,000 sq. ft, minimum. The Wetlands Protection Act has a minimum that at least once a year a confined area containing a volume of ¼ acre feet and to an average depth of at least 6" to be jurisdictional.
LG commented that potential vernal pool habitat could be affected. MT suggested that the Commission would require the developer to wait until the following spring in order to determine if it is vernal pool habitat.
3. Streams or creeks upgradient of a Bordering Vegetated Wetland are currently jurisdictional under the bylaw, but not under the Wetlands Protection Act. MT proposed removing that protection, which would then begin at the BVW below the creek.

LG commented that town bylaws must be equal to or more restrictive than the corresponding state law. The bylaw cannot be more lenient than the state law. The purpose of home rule is to allow individual towns the ability to determine their own level of protection, as Townsend has done.

- 3.3 Discuss membership fee of \$20 to the Massachusetts Society of Municipal Conservation Professionals** – LG said that she wanted to bring this to the Commission's attention if she decided to join the organization.
- 3.4 Discuss attendance at DCR's 2015 Massachusetts Conference "Sustainable Trails for a Sustainable Future"** – noted.
- 3.5 Discuss Executive Order 562 Call to Action!** – LG reported that there will be a "listening session" at the DEP Central Region office in Worcester on Tues, Sept. 29th from 4 – 6. VK noted that it is the same night as the FERC public meeting for the Tennessee Gas Pipeline Northeast Energy Direct project in Rindge, NH. There are additional sessions in more distant locations
- 3.6 Discuss request of Colonial Metal Detecting members to utilize Old Meetinghouse Park** – LG discussed the request she received from the Colonial Metal Detectors to bring a large group of 20-30+ members to look for historical artifacts in Old Meetinghouse Park. She had discussed possible issues with a local archaeologist, who expressed concerns about the request. JD discussed his experience with the hobby and had similar concerns. The Commission agreed that the site is historical property that belongs to the town and declined to authorize the Colonial Metal Detectors to utilize Old Meetinghouse Park for their activities.
- 3.7 Discuss conservation project ideas for Pack 11, Webelos 2** – VK suggested that they might be interested in trail upkeep on the Howard Stein Memorial Park off Old Meetinghouse Road.
- 3.8 Discuss and respond to Open Meeting Law Complaint by Laura Doehl, Townsend, MA** – CV motioned for LG to draft a response, and for the Chairman to review and sign the letter, seconded by JP, all in favor.
- 3.9 Discuss and vote on Request for Certificate of Compliance: DEP #308-465, 19 Kristopher Lane** – LG reported that this was another open Order of Conditions that she researched and contacted the homeowners to let them know that there was an outstanding Order on their chain of

title. This Order was issued in 2003 for a garage addition. The homeowner submitted the Request for a Certificate of Compliance. LG visited the site and confirmed that the work was done as proposed and it was stabilized. She recommended issuing the COC. HH motioned to issue the COC for DEP #308-465, seconded by VK, all in favor.

3.10 Discuss and vote on Request for Certificate of Compliance: DEP #308-345, 189 Wallace Hill Rd. – tabled until the next meeting

4.0 Correspondence - noted

4.1 Public records request under the Public Records Request Law from Karen Hill, Gardner, MA and response.

4.2 ZBA Notice of Decision and Decision for an Appeal approval for Keith and Mary Letourneau, 352 Main St.

4.3 Discuss Fall meeting dates – VK motioned for the Commission to have one meeting in November, to be held on 11/18/15, seconded by CV, all in favor. VK motioned for the Commission to have one meeting in December, to be held on 12/9/15, seconded by CV, all in favor.

4.4 Planning Board ANR: 233 Dudley Road & 188 Turnpike Roads -

4.5 Planning Board ANR: 82 and 90 Bayberry Hill Road

4.6 ZBA Notice of Decision and Decision for approval for Planet Fitness, Harbor Village Mall

4.7 FERC Notice of Public Scoping Meeting for the Northeast Energy Direct Project (6.2) and extension of public comment period to October 16, 2015

5.0 Items for discussion at the next meeting

The Commission will continue the discussion about revising the Townsend Wetlands Bylaw and regulations (see 3.2)

6.0 Advertisements and Conferences - noted

6.1 Annual Massachusetts Town Forests Event, Wilbraham, MA, Sun, Sept. 27, 9-4:30 pm

6.2 FERC Public Scoping Meeting, Franklin Pierce University, Rindge, NH, Tues, Sept. 29 @ 6:00 pm

6.2 DCR 2015 Massachusetts Trails Conference: “Sustainable Trails for a Sustainable Future”, Saturday, Nov. 14, 8 – 4:30, Double Tree Hotel, Leominster, MA

7.0 Next meeting – Wednesday, October 14, 2015 at 7:30 pm.

8.0 Adjournment – JH motioned to adjourn at 10:09 pm., seconded by MT, all in favor.

List of items discussed during the meeting

1. Notice of Intent, Townsend Highway Department, to replace the culvert at the Bixby Brook crossing on Old Meetinghouse Road, and associated plans
2. September 23, 2015 Conservation Agent Report
3. All other items discussed are listed on the agenda