

**Hamilton Conservation Commission  
Minutes of Meeting of Oct. 17, 2012  
Meeting held at Hamilton Town Hall**

Commissioners present:

Stacy Carpenter, Virginia Cookson (7:46), Robert Cronin, Peter Dana (7:32),  
Richard Luongo (chair), George Tarr

Staff present:

Jim Hankin, Conservation Coordinator

The Commission is scheduled to meet at 7:30 p.m. on Nov. 14 and 28, 2012 at Hamilton Town Hall. Site walks are scheduled for Sat. Nov. 10, 2012.

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Richard Luongo opened the meeting at 7:30 p.m. Conservation Coordinator Jim Hankin noted that prior to this meeting, commissioners again received copies of the 1-1/2 page 2012-13 Hamilton-Wenham Regional School District environmental education budget proposal that was presented at the previous Commission meeting.

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Request for Determination

327 Asbury Street

Dustin Prieur, owner and applicant

Construction of accessory structure on sonotubes, on paved driveway, 65' from edge of wetlands

Conservation Coordinator Jim Hankin provided details of this filing; the applicant was not present. Dustin Prieur proposes construction of a 24' X 24' pole barn on his property between Annie's Lane and the gas station at the corner of Highland and Asbury Streets, for storage of equipment. It would be built on sonotubes in an area now occupied by paved driveway. No plumbing is planned. Mr. Hankin reported he walked the site on the day before this meeting to measure the distance between the footprint of the proposed building as shown on the site plan, and when a septic system was proposed for the property about 11 years ago. He found the structure would come within 68' of the main wetland area on and near the parcel. He said there is a smaller, apparently isolated, wetland area on a different section of the property, and if the two areas were connected, the corner of the proposed structure would be at 40' from edge of wetland. There is a 2' to 3' drop between the established wetland area and the apparently isolated wetland area. He passed around photos he took onsite. He recommended the Commission grant a negative determination under the Wetland Protection Act and Hamilton Conservation By Law.

Peter Dana asked about roof drainage; Mr. Hankin said gutters would direct water onto the lawn. Mr. Dana asked how deep sonotubes must be sunk to support a structure of this type; Mr. Hankin was uncertain but said the building inspector would attend to this point.

Mr. Dana made a motion for the Commission to grant a negative determination under the Wetland Protection Act and the Hamilton Conservation By Law. Mr. Cronin seconded the motion. VOTE: Unanimous.

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Mass Audubon Environmental Education Program, Academic Year 2012-2013  
Proposal for education workshops and classes for HWRSD elementary students  
HCC to vote on whether to approve funding request

Mr. Hankin reported that the school district administrator who earlier presented the Environmental Education budget proposal to this Commission was to have met with the Wenham Conservation Commission on 10/16 to request that commission's funding, too.

Mr. Cronin made a motion for the Commission to accept the proposed budget and appropriate \$3,791.41 from the Conservation Fund to fund Hamilton's 69% share of the program budget.

Mr. Hankin said if the Wenham commission does not vote to fund its portion of the program budget, he would notify the Commission later in the year if invoices could not be met, so commissioners could consider funding the entire budget as in the past.

George Tarr seconded the motion. VOTE: Unanimous.

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Robert Cronin made a motion for the Commission to accept the minutes of the meeting of Oct. 3, 2012 as presented. Peter seconded the motion. VOTE: unanimous.

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Discussion

Mr. Hankin briefed commissioners about a Supreme Judicial Court ruling regarding waivers of the Wetlands Protection Act requirement that a Conservation Commission must issue a decision within 21 days of the close of a public hearing. The Hingham Conservation Commission required every person filing with that Commission to submit a signed waiver of the right to a decision within that timeframe. Among the Hingham commission's actions in this case was a negative decision that was issued one day beyond the 21-day period, and the property owner challenged the commission's waiver policy in court. The SJC ruled that waivers are legitimate, but must be voluntary; it interpreted the Hingham commission's practice as coercive because it was impossible for an applicant to file without signing a waiver. Mr. Hankin read aloud a summary of the finding of the case (which is appended to these minutes). He noted that if this Commission ever asks an applicant to waive the right to a Commission decision within 21 days, the applicant must have a choice, and if the applicant does not wish to extend the time period, the Commission must issue a decision within 21 days. Also, the Commission's request for an extension must have something to do with the case and the Wetland Protection Act.

Robert Cronin made a motion for the Commission to adjourn at 7:55 p.m. Stacy Carpenter seconded the motion. VOTE: Unanimous.

Minutes submitted Oct. 22, 2012 by Ann Sierks Smith