

**Hamilton Conservation Commission
Minutes of Meeting of Feb. 3, 2011
Meeting held at Hamilton Town Hall**

Commissioners present:

Virginia Cookson, Robert Cronin, Peter Dana, Richard Luongo (co-chair)

Staff present:

Jim Hankin, Conservation Coordinator

Others present:

Dick Flynn, 240 Linden St.

George Tarr, Essex St., prospective candidate for Commission

Keith Glidden, Cutler Rd., prospective candidate for Commission

Luis Muñoz, Moynihan Rd., prospective candidate for Commission

The Commission is scheduled to meet next at 7:30 p.m. on Feb. 16, 2011.

Richard Luongo opened the meeting at 7:39 p.m.

Conservation Coordinator Jim Hankin noted that further discussion of an existing Enforcement Order regarding John Donovan's property known as Devon Glen has been continued to Feb. 16. He said a representative of the Massachusetts Farm Bureau, a non-governmental agency, has indicated he plans to attend that meeting. Mr. Hankin introduced three prospective candidates for an open seat on the Commission, and said Cami Beckman also has expressed interest in joining the Commission and has said she will attend the Feb. 16. meeting.

Virginia Cookson made a motion for the Commission to approve the minutes of Dec. 15, 2010 as presented. Peter Dana seconded the motion. VOTE: Unanimous.

Notice of Intent (Public Hearing continued from Nov. 3, Nov. 17, and Dec. 15 2010, and Jan. 12 and 26, 2011.)

Linden Street

Hamilton Department of Public Works, applicant

Replace existing culvert in public way

Conservation Coordinator Jim Hankin noted that the Commission last discussed this matter on Dec. 15, 2010; the January meetings did not take place because of storm cancellations. He said that Department of Public Works Superintendent John Tomasz did not attend this meeting because of work related to the most recent storm. He said Mr. Tomasz said he would not start the project for at least a month, and so would not mind if the Commission decided to continue this matter; he also indicated he would comply with any conditions the Commission might place on an Order of Conditions if one were granted during this meeting. Mr. Hankin noted also that since the last discussion, the Commission conducted a site visit, and had access to stream crossing guidelines that Nancy Baker provided and encouraged her fellow commissioners to read before ruling on this NOI.

After brief discussion, commissioners reached a consensus that this project to replace a culvert near the intersection of Linden and Howard must proceed. Virginia Cookson noted that during the site visit, commissioners spoke with Mr. Tomasz about careful handling of the invert.

Robert Cronin made a motion for the Commission to grant an Order of Conditions under the Wetland Protection Act, and issue a permit under the Hamilton Conservation By Law. Ms. Cookson seconded the motion.

Mr. Hankin invited Dick Flynn, whose home at 245 Linden St. is affected by flooding associated with the culvert, to comment. Mr. Flynn said he understood the planned project and that his question and concerns had been addressed to his satisfaction. Richard Luongo said it is uncertain how much the project will improve drainage in that neighborhood, because some associated pipes and culverts will remain unchanged. Mr. Flynn said that when the DPW moves forward with an already-approved project to clear the stream that the culvert carries beneath the road, the wider deeper channel should relieve flooding on neighboring properties.

VOTE: Unanimous. Commissioners signed the permit.

Discussion

Commissioners briefly discussed the Massachusetts Association of Conservation Commissions annual conference on March 5; Richard Luongo and Virginia Cookson said they would attend.

Mr. Hankin said that the Town Manager has asked the Commission to consider revising its fee structure, but is not pressuring the Commission to do so. This would require public hearings, because the fees are specified in a By Law. The Commission raised fees in 2005 and 2007. Mr. Hankin provided information about nearby towns' fee levels and structures; some fees in some towns are higher, some lower, and some are substantially more complicated; for instance, Mr. Hankin said, Topsfield's fees are based on the square feet of buffer zone that a project would alter. He noted that some towns list higher fees for extensive, complicated projects, but that such projects are very rarely proposed in Hamilton. Unlike some towns, Hamilton does not charge a fee for extension of a permit. Virginia Cookson suggested the Commission consider setting two levels of fees for Requests for Determinations, to charge more for RFDs that involve extensive work by commissioners and Mr. Hankin. Peter Dana suggested having low fees for projects that people must do, such as upgrading septic systems, and higher ones for projects that people want to do, such as adding a deck. Commissioners decided to schedule a public hearing on this matter, several months from the time of this meeting.

They deferred discussion of whether to adopt stricter criteria for applications with work proposed in the no-build and no-disturb zones.

They discussed John Donovan's objections to the manner in which an Enforcement Order was served in 2010, and how to handle such service in the future. Mr. Dana suggested the Commission tighten its rules to stipulate that an EO must be served directly to the individual named. Mr. Hankin said Town Manager Michael Lombardo has offered to attempt to contact an addressee and arrange delivery if an EO the Commission sends by certified mail is refused, and returned by the post office, as was the case with the recent EO served to Mr. Donovan. Commissioners agreed that regardless of issues about the means of delivery, the EO remains in effect. They also briefly discussed Mr. Donovan's characterization of his property as a farm, and his claim of agricultural exemption from wetland regulations. Mr. Hankin said that when the

Commission issued an Enforcement Order to Mr. Donovan in 1994, it found at that time that the area was not agriculturally exempt. He noted that Mr. Donovan has at other times filed project plans with the Commission, which he said constitutes acknowledgement that portions of the property were subject to wetland regulations at that time. Mr. Dana and Mr. Cronin suggested the Commission consider proposing to Mr. Donovan a management plan for his property, such as the Commission has worked out with Pingree School and Myopia Hunt Club.

Mr. Hankin distributed to commissioners a summary of the state Conflict of Interest Law, as is required annually, and asked them to sign and return the attached form.

Mr. Luongo addressed three individuals in the audience who have expressed interest in being appointed to the Commission to fill a vacant seat. He briefly explained what the position entails. He invited them to introduce themselves. George Tarr said he is a retired protein chemist with a long-standing interest in conservation, and roots in Hamilton dating back to when his grandparents moved to the town in the 1930s. Luis (Manny) Muñoz said he moved to Hamilton five months earlier, when he began a three-year term as commander of the Coast Guard station in Gloucester; in a prior Coast Guard assignment he served on an environmental strike force team, which involved training about chemicals and hazardous materials, and involved responses to oil spills and natural disasters. Keith Glidden said he moved to Hamilton in March 2010 from Salem, where he served from 2004-2010 on the Salem Conservation Commission. He said he studied environmental science and ethnobotany in college, and is now a trial lawyer specializing in land use litigation including appeals of conservation commission and zoning board of appeals decisions, construction litigation, and title disputes. Mr. Luongo and Mr. Hankin described the approval process. Mr. Luongo said after the potential candidates attend several Commission meetings, the Commission would decide whom to recommend to the Board of Selectmen for appointment.

Peter Dana made a motion for the Commission to adjourn at 8:37 p.m. Robert Cronin seconded the motion. VOTE: Unanimous.

Minutes submitted Feb. 4, 2011 by Ann Sierks Smith