

**Hamilton Conservation Commission
Minutes of Meeting of October 9, 2013
Meeting held at Hamilton Town Hall**

Commissioners present:

Stacy Carpenter, Virginia Cookson, Bob Cronin, Richard Luongo (chair), George Tarr.
Peter Dana and Keith Glidden arrived shortly after 7:30 p.m.

Staff present:

Jim Hankin, Conservation Coordinator

Others present for a portion of the meeting:

Hamilton DPW, Dave Hanlon Director Applicant

Laura Bugay, CDM Smith Inc., Rep.

Jeremy Fraley, 84 Old Cart Road resident

Richard Luongo opened the meeting at 7:30 p.m. Jim Hankin noted that the meeting was being recorded. Mr. Hankin referred to the document written by Laura Bugay that was distributed to the Commission previously via email that includes CDM Smith, Inc.'s response to DEP comments and Phragmites treatment at the landfill. He added that the minutes for the September 25, 2013 Conservation Commission meeting would be ready for the next meeting.

Notice of Intent (Public hearing continued from Sept. 11, 2013 and Sept. 25, 2013)

Hamilton Landfill

Close and cap landfill

Hamilton DPW, Dave Hanlon Director Applicant;

CDM Smith Inc., Rep. Laura Bugay

Ms. Bugay discussed response to DEP's comment ("Were soil test pits made at the infiltration basin site to determine soil types and the ESHWT to evaluate 2 foot separation between bottom of basin and the ESHWT? Design of basin should be on plan with x-sections."); and that NHESP Habitat and Endangered Species letter has arrived clearing the project.

She noted that test pits were not done because there was sufficient information from the earlier comprehensive site assessment where groundwater data was obtained for the entire site. Groundwater levels are confirmed in the assessment document. She referred to contours on plan relative to basin and groundwater being between 52 and 58 feet elevations. The proposed bottom of the basin is at elevation 62 providing a minimum of four feet of separation, two feet more than the required two feet.

Ms. Bugay explained that a small drainage basin (68' across and fitting into the natural contours) would be located in the north corner of the site. An infiltration swale will feed the basin. The basin will have a riprap spillway. She had prepared a grading plan that shows how the basin is constructed. The grade is 5% from the basin down towards the wetlands.

Also, the groundwater monitoring is ongoing and wells would continue to be monitored post-closure as well as surface water monitoring done twice annually. Weston and Sampson will do the monitoring since they are under contract with the Town.

Mr. Hankin described four items that needed Commission votes:

- An approval is required for the winter wetland delineation;
- The applicant has asked for a waiver to the No Disturb Zone and No Build Zone and an alternative to that approach is to find that the applicant has overcome presumption of adverse impact to wetlands for work proposed in those zones (closing and capping of landfill pursuant to current solid waste regulations would be an environmental benefit as well as Phragmites removal);
- Consider whether to accept NOI as limited project relative to WPA and work in resource areas;
- Replication guidance document if waste is found in wetlands.

Discussion ensued about basin location not being over waste. Ms. Bugay said existing contours are elevation 64 and some cut down to elevation 62. She explained if oil drums are found to be located in the landfill there are procedures and allowances that would be included in contract to cover that scenario. She said the groundwater in the area is very clean for the site.

Keith Glidden moved to close the public hearing. Stacy Carpenter seconded the motion. The Commission voted 6-0-1 with Peter Dana abstaining since he said he had not seen the project area in a number of years.

Discussion ensued about if Mr. Hankin should visit the site after the vegetation is cleared. He will be visiting the site when the erosion control is installed. Any trees removed will be chipped and material taken offsite.

Mr. Glidden moved to accept the winter delineation. Ms. Carpenter seconded the motion. The Commission voted 6-0-1 with Mr. Dana abstaining.

Mr. Glidden moved to accept that the project proponent has rebutted the presumption of adverse impact in the No Build and No Disturb Zone. Ms. Carpenter seconded the motion. The Commission voted 6-0-1 with Mr. Dana abstaining.

Mr. Glidden moved to accept the project as a limited project for the purposes of the DEP regulation. Ms. Carpenter seconded the motion. The Commission voted 6-0-1 with Mr. Dana abstaining.

Mr. Glidden moved to issue the Order of Conditions with special condition that a post clearing vegetation site walk be arranged with Conservation Agent, and if any waste is found in the wetlands, that DEP guidance for replication be followed. Also, Phragmites treatment as described in CDM Smith letter where contractor would return to site a year later to monitor re-growth and re-treat. Mr. Hankin said letters would be referenced as part of permit as will be DEP comment and receipt of response by applicant. Ms. Carpenter seconded the motion. The Commission voted 6-0-1 with Mr. Dana abstaining.

Violation Notice

84 Old Cart Rd

Shed in wetlands, no HCC or Building Department permit

Jeremy and Hannah Fraley land-owners

Mr. Hankin noted that the Commission had conducted a site walk relative to Violation Notice. Town Hall has no HCC or Building Department permits for the shed that is placed in wetlands, however, the Assessors have a record of the shed that has been in the location since the mid-1990s. The inspection revealed that the shed has been in its location for some time.

Mr. Fraley, the land-owner, is housing two sheep and two goats on the site in the shed, with six chickens in a structure attached to a barn. During the site visit, Mr. Fraley spoke to Commissioners about where he would like to plant fruit bearing trees and locate a fence to keep the animals in one location.

Discussion ensued about how the resource area is BVW and flood plain. The animals positioned behind the house are grazing upland but are in the 25-foot No Disturb Zone. The shed is in the wetland. Discussion addressed how the Board of Health allows 10 chickens by right, more than that a permit would be required. For other animals, certain amount of upland space is required as well as permits from Board of Health. Mr. Hankin noted that Health Agent would be inspecting area in the near term. He stated that grazing in septic system area (in front yard) would be removed from allowable upland for grazing.

Mr. Hankin suggested that area used for pasture would need manure removed daily, stored in covered containers and removed regularly. He added that it might not be advisable to have area over septic system denuded by grazing but Health Agent would opine.

Mr. Dana said he would abstain since he did not attend site walk. Mr. Hankin said the Commission and Board of Health act independently on the matter and either board could decide that the use is in violation and it would have to cease.

Discussion ensued about location for fence as determined by surveyor relative to being outside of wetland. Mr. Hankin suggested any future activity on the site should be the subject of a filing. He said the existing incursion is within the Commission's discretion to allow it to continue or have a new solution determined. Mr. Glidden stated that he did not believe the shed has to be removed, but concurred any new activity would have to be the subject of a new filing. He added if Board of Health decides the existing use can remain, then location for animals should be moved as far away from restrictive zones as possible.

Ms. Carpenter recommended an RDA be done for current use to set a precedent for future similar circumstances and that Commission, pending a decision from Board of Health. Mr. Fraley said the shed has separate enclosures for sheep and goats and has construction materials to contain manure and odor. He noted that manure is contained in a covered, plastic barrel 100 feet away from neighboring property and it is transported to Brick Ends Farm every Friday. Bob Cronin suggested trees be protected from grazing animals so they do not get destroyed.

Mr. Hankin referred to suggestion for Mr. Fraley to file an application for RDA rather than NOI and plans for what could be done at the site. Ms. Cookson recommends Mr. Fraley could continue with his existing use and cannot do any other activity until an RDA is filed.

Mr. Glidden recommended status quo until the Commission hears from Board of Health and concurred that an RDA should be filed for any future activities.

Discussion ensued about how Mr. Fraley was not in violation with the shed since it was already at the site. Mr. Hankin summarized that the current use with animals on the site is a minor issue based on Commission discussion and that the Board of Health needs to reach a conclusion on the amount of animals allowed at the site. The Commission agreed that if Mr. Fraley wants to do anything new on the property he would have to file an RDA.

Mr. Hankin said in consideration of the Health Agent's schedule to review the situation, the Commission will revisit the issue at its November 6 meeting. He reiterated to Mr. Fraley, Ms. Carpenter's prior statement that Mr. Fraley should not do anything different at the site and it should remain exactly as it was during the Commission's site walk until further notice from the Commission or Board of Health.

Discussion: Commissioners suggest topics for discussion at HCC meeting of October 23

Mr. Hankin said he anticipates a filing for October 23 (pool) that has to be received by his office by noon tomorrow and this filing will require a site walk.

Mr. Glidden spoke to the Community Preservation Committee agreeing to go along with Patton Park pool project and that it falls within WPA. The project has some support in Town to develop it and the Town will now vote at Special Town Meeting. Wenham is likely to contribute a small amount but not much toward the project. Also, the Patton Property river walk project was approved by CPC for Community Preservation Act funds use and walk will weave in and out of Essex County Greenbelt Association property. Discussion ensued about how Patton Park playground group is interested in raising funds for the pool project. Any corporate projects for the Town would include a turf field at the HW Regional High School site. Mr. Glidden notes that the Town votes on how to use the CPA funds and under the Act these funds cannot be used for turf fields. Also mentioned is that CPA funds could not be used for a sewerage project downtown. Mr. Glidden suggested that there could potentially be as much voter participation during Special Town Meeting for the pool project vote as recent Pirie Property vote.

Ms. Carpenter gave a Patton Property update based on recent Patton Property Advisory Committee meeting and noted that the feasibility study for a bed and breakfast use at the homestead would be reviewed in the next two weeks and it appears that this could be a revenue generator for Hamilton. Also, the recreation field use is no longer being considered in the original location at the site except near the road and the use now under consideration is for 12 houses that would generate tax revenue and 25% goes into endowment to pay for maintenance of homestead. She concurred that Essex County Greenbelt Association is cooperating in the river walk project. In addition, public meetings would be held beginning in January leading up to Annual Town Meeting in April to publicize use for the Patton Property site. Discussion ensued about proposed housing at the site and that it would be a cluster with one affordable unit. Also mentioned was

that the housing alone would not sustain the homestead in the long term that is why the B&B is being considered to pay for the homestead maintenance costs.

Mr. Cronin moved to adjourn. Ms. Carpenter seconded the motion. The Commission voted unanimously in favor of the motion. Commission adjourned at 8:41 p.m.

Minutes submitted October 14, 2013 by Jane Dooley