

**Hamilton Conservation Commission  
Minutes of Meeting of April 13, 2011  
Meeting held at Hamilton Town Hall**

Commissioners present:

Nancy Baker, Robert Cronin, Peter Dana, Richard Luongo (co-chair)

Staff present:

Jim Hankin, Conservation Coordinator

Others present for all or a portion of the meeting:

George Tarr, prospective candidate for Commission

Keith Glidden, prospective candidate for Commission

The Commission is scheduled to meet at 7:30 p.m. on April 27, May 11, and May 25, 2011. Site walk is scheduled for Saturday morning May 7.

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Richard Luongo opened the meeting at 7:32 p.m.

Conservation Coordinator Jim Hankin listed the documents that commissioners received prior to this meeting: a memo from Hamilton DPW Superintendent John Tomasz about stream clearing near Howard St., and a photocopy of relevant regulations; a draft policy about work near wetlands; material about possible fee restructuring; and updated information about the expedited permit process that the Board of Selectmen asked all boards and committees to review.

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Request for Determination

125 School Street

Donna Brewer, applicant

Replace fence around pool; required by building code

Conservation Coordinator Jim Hankin described this proposed project; the applicant, Hamilton Town Counsel Donna M. Brewer, was not present. Ms. Brewer's property includes a swimming pool and hot tub, between her house and wetlands. She wants to repair sections of the existing fence around them, and to replace sections that are beyond repair. The existing fence is anchored in the concrete deck. Mr. Hankin reported he measured the distance between the proposed work area and wetlands at around 65'. The job has not been put out to bid, so Ms. Brewer did not submit specific information about equipment that would be used, but Mr. Hankin said Ms. Brewer intends for workers to bring a truck onto the property but to transport materials to the pool area via wheelbarrow, and to hammer in posts by hand, perhaps just off the concrete area.

Robert Cronin made a motion for the Commission to issue a negative determination. Peter Dana seconded the motion. VOTE: Unanimous.

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Robert Cronin made a motion for the Commission to accept the minutes of March 23, 2011 as presented. Peter Dana seconded the motion. VOTE: Unanimous.

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Request for Modification of Order of Conditions

Linden and Howard Streets

Hamilton Department of Public Works, applicant

DPW Director requests HCC consider use of machinery in stream cleaning project

Conservation Coordinator Jim Hankin related information he received from DPW Superintendent John Tomasz, who was not present. When the Commission issued an Order of Conditions (OOC) allowing the DPW to clean a stream along Linden St. near Howard St., in order to alleviate flooding, the Commission specified that the work must be done by hand. Mr. Tomasz put out an RFP with that specification, but received bids higher than the DPW budget permits. He requests a modification of the OOC to allow use of some machinery. He says Town DPW workers might be able to do some work on the project by hand this spring, but because of limited staffing and other tasks at hand, might not be able to do much work, or any, this season. He states that if the Commission authorizes use of machinery, and he is able to secure a contractor who would do the work at an affordable price, he would work closely with Mr. Hankin to ensure that the contractor performs the work to the Commission's satisfaction.

Richard Luongo asked what equipment would be used. Mr. Hankin said it would likely be wide-tired vehicles such as those the Northeast Mosquito Control District uses to work in small streams. Nancy Baker expressed concern that the location of stream banks and the elevation of the bottom of the stream might be altered. She said the stream is small, so it should be possible to position equipment on the bank rather than in the stream. Peter Dana suggested that if the Commission modifies the OOC, commissioners should inspect the site just before work begins, and again while it is in progress.

Ms. Baker asked whether Mr. Tomasz notified neighborhood residents that he is seeking a modification of the OOC. Mr. Hankin said abutter notification is not required when an applicant requests a modification, as opposed to an amendment. He said he would send copies of Mr. Tomasz's memo to area residents who have expressed interest in the project.

Commissioners reached a consensus that they are willing to discuss modifying the OOC to allow use of equipment, and would like to discuss with Mr. Tomasz the specifics of the project well before the job begins. Mr. Hankin said he would convey that to Mr. Tomasz.

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Discussion

Mr. Hankin noted that regulations require the Commission to select officers during the meeting of May 25, 2011, which will be the first Commission meeting after Town Meeting.

Commissioners briefly discussed a draft policy statement regarding work in the no-building and no-disturbance zones. Nancy Baker suggested substituting the phrase "presumption of significance" for the existing phrasing "presumption of adverse impact" because in state regulations "presumption of significance" is linked to performance standards that facilitate evidence-based evaluation of a project's impact. Mr. Hankin said he would further revise the draft for Commission review at a future meeting.

Continuing discussion at prior meetings, commissioners reviewed the existing Commission fee schedule and Mr. Hankin's draft of a revised schedule that would increase some fees, and add some new ones. He estimated that if the Commission accepts the fee schedule in its current draft, fee revenue might rise by \$750 to \$1,000 more a year, or by more in years when the Commission

issues Enforcement Orders and/or Violation Notices. The latter would result in assessment of fees of \$500 or \$1,000, depending on the type of activity cited, and those fees would be intended to compensate the Commission for the extensive staff time and effort required to investigate, serve, and arrange resolution of violations. The draft fee schedule did not include a detail the Commission had agreed upon, which would waive the fee for a Certificate of Compliance if a landowner filed for one soon after completion of a project; Mr. Hankin said he would revise the document to include that detail. Ms. Baker suggested the Commission update several other regulations and consider them at the same public hearing at which the potential fee changes would be considered.

Commissioners briefly discussed additional information about Ch. 43D, the state law that allows communities to adopt expedited permitting regulations for large development projects. Mr. Hankin said he has concluded that under 43D, the Commission would have 180 days to consider an application. Commissioners agreed this would be adequate, unless an application were filed at a time that precluded wetland delineation (because Commission regulations bar delineations during four winter months) or unless a project required a habitat study with a long time horizon. Richard Luongo noted that if the timing of a filing made it impossible for the Commission to adequately evaluate a project within 180 days, the Commission could deny it on those grounds; Ms. Baker noted that in that case, the state would decide the case. Mr. Hankin said the proposal is on the Town Meeting warrant, but Town officials say it is likely to be tabled.

Mr. Hankin announced that Commissioner Camilla Rich has resigned. Mr. Luongo made a motion for the Commission to commend Ms. Rich for her service. Mr. Cronin seconded the motion. VOTE: Unanimous.

Commissioners invited George Tarr and Keith Glidden, who have expressed interest in joining the Commission, to express to the Commission any information they would like Commissioners to know prior to the Commission's vote about which individuals to recommend the Board of Selectmen appoint to the Commission. Mr. Glidden mentioned his five years as a member of the Salem Conservation Commission, and that in his legal practice he deals with environmental issues. Mr. Tarr described his personal interest in and commitment to conservation and open land. At commissioners' request, they left the meeting. Commissioners briefly discussed the four Hamilton residents who have expressed interest this year in joining the Commission, and they noted that since expressing interest in joining the Commission Mr. Tarr and Mr. Glidden have attended its meetings regularly, while the other two potential candidates have not.

Peter Dana made a motion for the Commission to recommend to the Board of Selectmen the appointment of George Tarr to fill Camilla Rich's unexpired term (through June 2011), and Keith Glidden to fill Sarah Getchell's unexpired term (also through June 2011). Mr. Cronin seconded the motion. VOTE: Unanimous.

Commissioners agreed to Mr. Hankin's suggestion that they place on the May 7 site walk agenda an inspection of 484 Bay Rd., a visit to which the property owner agreed in February as part of the process of resolution of an Enforcement Order.

Commissioners signed vouchers.

Robert Cronin made a motion for the Commission to adjourn. Peter Dana seconded the motion; VOTE: Unanimous. The meeting ended at 8:30 p.m.

Minutes submitted April 15, 2011 by Ann Sierks Smith