

**Hamilton Conservation Commission
Minutes of Meeting of June 24, 2009
Meeting held at Hamilton Town Hall**

Commissioners present when meeting convened at 7:30 p.m.:

Nancy Baker, Robert Cronin, John Hamilton (co-chair), Camilla Rich

Staff present:

Jim Hankin, Conservation Coordinator

Others present (for portion of the meeting):

Mark Kuzminskas of 408 Bridge Street

Gordy Rogerson, consultant

The Commission is scheduled to meet on Wednesdays July 15, and July 29, 2009 at 7:30 pm. at Hamilton Town Hall. Site walks are scheduled for Sat. July 11, 2009.

John Hamilton opened the meeting at 7:30 p.m.

Commissioners signed vouchers.

Robert Cronin made a motion for the Commission to accept as presented the minutes of the meetings of May 13, May 27, and June 10, 2009. Nancy Baker seconded the motion. VOTE: Unanimous.

Sarah Getchell joined the meeting at 7:32 p.m.

Violation Notice

408 Bridge Street

Mark & Karen Kuzminskas, property owners

Substantial cutting of natural wild vegetation within buffer zone to pond, buffer zone to bordering vegetated wetland (BVW), and possibly within riverfront

Gordie Rogerson of Hayes Engineering presented draft plans for after-care and monitoring of restoration planting that is to take place around a pond at 408 Bridge St., where unauthorized clearing took place. Conservation Coordinator Jim Hankin said he and Mr. Rogerson worked together to arrive at a mutually-acceptable after-care plan. He reported also that Mike DeRosa, the Commission's consultant in this matter, finds the draft plan satisfactory. Mr. Hankin noted also that although the Commission has not yet approved the proposed after-care plan, Hayes submitted a field data form and photographs taken at the site as specified in that draft, which can serve as a baseline to describe conditions at the site as of June 2009. Commissioners received the photos and one field data form prior to this meeting.

Mr. Rogerson showed commissioners a 6/24/09 update of the site plan, with three data points (A, B & C) labeled along the side of the pond farthest from the house. He said a Hayes staff member would inspect the site every month through the end of the 2010 growing season, and document with photos and data the status of restoration planting in a 5', 10', and 30' radius of each data

point. He said he considers three points adequate, but that if the Commission so desired, another one or two could be created.

Mr. Rogerson said none of the planting specified in the restoration plan has taken place yet, but a contractor's seed mix was broadcast at the site to help prevent erosion between the time piles of cut brush were removed, and the eventual planting of the specified vegetation. He and landowner Mark Kuzminskas said plants probably would be installed within days of this meeting; they were ordered from Corliss Brothers, and delivery was anticipated later in the week of this meeting. Mr. Rogerson said after individual plants are installed, a wetland seed mix would be broadcast; he said it should overtake the grass, clover, and other species that were included in the contractor's mix seeded earlier.

Nancy Baker noted that at a previous meeting, Mr. Rogerson indicated photos would be taken around 4 cedar monuments that would be placed to mark the wetland line. Mr. Rogerson replied that he decided it would be better to place the data points in the wetlands, so that the 5', 10', and 30' diameter circles around the data points all would be in the wetlands. After examining the baseline photos dated June 23, all present agreed that in the future, each photo should be labeled to indicate the compass direction in which it was taken.

Virginia Cookson joined the meeting at 7:42 p.m.

Commissioners had received the field data form for only one of the data points. Mr. Rogerson gave copies of the other two to Mr. Hankin, who said he would scan them and e-mail them to commissioners later.

Mr. Kuzminskas said tussock sedge at the site has grown close to knee-high.

Ms. Baker summarized the commission's consensus about how future monthly reports should be submitted: a PDF and 1 hard copy of field data reports for each of the three data points, plus 5 photos from each point: one to each compass point, and one down to the ground.

Commissioners then discussed the proposed monitoring schedule. Mr. Hamilton asked whether it is necessary for monitoring to take place monthly during the second growing season; Mr. Hankin replied that the goal is to provide the same amount of data, chronologically, for each of the two growing seasons. Ms. Baker added that monthly monitoring for two full seasons would facilitate regular removal of loosestrife.

Ms. Baker asked what "measuring stick" would indicate when enough has been accomplished. Mr. Hankin cited this sentence in the monitoring proposal: "75% coverage of the restoration area with 15% or less of loosestrife at the end of the second growing season will be considered a successful restoration." Mr. Hankin said the goal is no loosestrife, but that he, Mr. Rogerson, and Mr. DeRosa agreed on 15% as a reasonable compromise. Ms. Getchell said the homeowner could continue to pull out loosestrife after the restoration-monitoring period is over.

Ms. Cookson made a motion for the Commission to accept the monitoring plan, with pictures and reports to be made from 3 data points instead of from the wetland markers as originally approved. Camilla Rich seconded the motion. VOTE: Unanimous.

At 8 p.m., John Hamilton recessed the meeting. He departed at 8:06 p.m. Sarah Getchell reconvened the meeting at that time.

Following brief discussion, Virginia Cookson made a motion for Nancy Baker and Sarah Getchell to serve as co-chairs of the Commission for a one-year term beginning July 1, 2009. Camilla Rich seconded the motion. VOTE: Unanimous.

Abbreviated Notice of Resource Area Delineation

315 Sagamore Street

Three Fifteen Sagamore Realty Trust, applicant; Seekamp Environmental, representative

Conservation Coordinator Jim Hankin said the applicant has requested that the public hearing on this ANRAD filing be continued to July 15, 2009. Commissioners continued it as requested, by general consent.

Mr. Hankin reported on the status of the Commission's hiring of a wetland consultant to review the wetland line as mapped by the landowner's consultant, Seekamp Environmental. Five consultants responded to the Commission's request for proposals. He said he contracted with the low bidder, Greg Hockmuth of Neve-Morin; his bid was \$1,430, while others were as high as \$2600. Mr. Hockmuth's report is to reach the Commission prior to it July 15 meeting. Mr. Hankin said it is especially important for an expert to review soil data, because commissioners could not inspect soils during an earlier site walk because no auger was on hand. He said commissioners who did not yet view the site could arrange this with Mr. Seekamp. He said areas of particular interest include a possible vernal pool, and an area vegetated with cinnamon fern.

Discussion

By Law regulations

Commissioners discussed whether to propose changes to the regulations pursuant to Hamilton's Conservation By Law. Commission Coordinator Jim Hankin said he raised the issue because Hamilton's Town Counsel has recommended that the Commission adopt a regulation to authorize the Town to create a revolving account for payment of consultants hired by the Commission. This system is laid out in model rules published by the Massachusetts Association of Conservation Commissions (MACC). Unless a regulation establishes statutory authority, the Town cannot set up such an account. The MACC's model rules also would allow the Commission to withhold permits until all Commission fees are paid. Mr. Hankin said the Commission has encountered no such problems to date, but it would be good to have such as system in place "so no one can stiff the Commission." He said the Commission might be able to adopt a policy to accomplish this, but it would be better to add it to the regulations.

Mr. Hankin said another issue that has been raised is whether the scientific basis for the Commission's performance standards is adequately laid out; he reported that John Hamilton thinks the performance standard regulations are "on the vague side." Nancy Baker said there is more scientific information available now than in the past about buffer zones. She recommended that Mr. Hankin or commissioners gather information about this, and draft more specific regulatory language.

Ms. Baker asked about the Commission's guidelines for granting waivers. Mr. Hankin said the Commission makes such decisions on a case-by-case basis, but that its general practice is to permit incursion into the no-build zone (NBZ) if 2-to-1 or 3-to-1 compensation plans are submitted and accepted; such plans are viewed as rebuttal of the presumption that such incursion would have adverse impact on the NBZ. Virginia Cookson said the Commission considers the past use of the land, and generally declares a finding that explains the reasons for its ruling. She said Hamilton's process is not necessarily bad, but should be clearer. Robert Cronin said the Commission uses "a lot of common sense." Mr. Hankin said Topsfield's Conservation Commission strictly prohibits incursions into all buffer zones, but has a lengthy official list of exemptions; this makes the regulations clearer, but does not allow the Topsfield Commission much discretion.

Commissioners decided to wait until late September for substantive discussion of possible By Law regulatory changes.

Discussion

Conservation Coordinator Jim Hankin told commissioners he issued a Violation Notice on the day of this meeting to the Asbury Grove Camp Meeting Association ("the Grove"), for digging a trench about 40' from wetlands without authorization. The trench is around the building known as "the Tabernacle." Construction equipment was parked at the site at the time he visited. He said remediation probably would not be difficult. He noted that the Grove's management has been before the Commission several times and "should know" they must file with the Commission prior to excavation with heavy equipment, near wetlands. He said this matter is on the agenda for the Commission's next meeting, and a representative of the Grove would attend the meeting. Commissioners scheduled a site inspection for July 11.

Mr. Hankin reported that he sent an Enforcement Order to Michael Minogue of Veranda Circle by certified mail; Mr. Minogue acknowledged receipt, and filed a written statement at the Commission office. In this statement he repeated his prior statements that the Town is responsible for resolving issues such as beavers and other causes of flooding that have an impact on water levels in Beck's Pond and associated wetlands. Mr. Hankin said given these statements, he does not interpret Mr. Minogue's written statement as compliance with the Order. He said he forwarded the file on this matter to the state Department of Environmental Protection.

Mr. Hankin and commissioners briefly discussed whether Jack Lawrence is the Commission's official representative to the Landfill Steering Committee, or is an at-large member. Mr. Hankin said a member of the Commission could serve on the LSC if Mr. Lawrence is not officially representing the Commission. Commissioners concluded that they officially appointed Mr. Lawrence.

Commissioners discussed whether to suggest to the Board of Selectmen some candidates for the Commission, now that a seat is open because the Selectmen voted not to reappoint John Hamilton. Mr. Hankin said Town Administrator Candace Wheeler indicated the Commission should recruit candidates. Virginia Cookson said she was shocked that the vote not to reappoint Mr. Hamilton was unanimous. Mr. Hankin said Mr. Hamilton is forceful and opinionated, and alienated quite a few people. Ms. Cookson said he stated what he believes; she said this is admirable. Sarah Getchell said the Commission is not anti-development, but wants development to take place the right way.

Robert Cronin made a motion for the Commission to adjourn at 8:50 p.m. VOTE: Unanimous.

Minutes submitted June 30, 2009 by Ann Sierks Smith