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HAMILTON CONSERVATION COMMISSION

**MINUTES OF MEETING
June 23, 2021 at 7 p.m.
Virtual Zoom Meeting ID: 891 5269 9251
Passcode 190935**

Members Present: Lauren Lynch, Chair, Virginia Cookson, George Tarr, and Mary Lester.

Coordinator: Brian Colleran

Others Present: Peter Ellison and Jonathan Rockwell, TEC; Greg Hochmuth of William & Sparages; Elizabeth Rossetti of 172 Miles River Road, Attorney Deborah Eliason, Ellison Law Office, Mary Rimmer of Rimmer Environmental Consulting, Attorney Jill Mann, Mann & Mann Counselors at Law, Adam Towne, DBU Construction, John Cole of 66 Chebacco Road, Al Degroot of 193 Chebacco Road, Louis Brown of 296 Essex Street

A quorum was established and the meeting was called to order at 7:43 p.m. by Chair, Lauren Lynch.

Public Hearings:

Notice of Intent – Bridge St. (Bay Rd. to Miles River Rd.) & Miles River Road (Bridge St to Essex St.) – Town of Hamilton, Department of Public Works – The town is proposing paving and drainage improvements along various roadways as part of the town’s annual pavement and drainage maintenance program

Peter Ellison, Civil Engineer with TEC representing Tim Olson, DPW director for Hamilton explained that they had not received a DEP number yet but would still like to present the project to receive feedback from the Commission and the public and he would try to incorporate those comments for the next meeting. Ms. Lynch agreed that he would be able to present at this meeting.

Mr. Ellison told the Commission that Jonathan Rockwell from TEC was also attending the meeting. Mr. Ellison explained that the purpose was to provide paving and drainage improvements along Bridge Street. Mr. Ellison shared his screen with the Commission to review their plan and explained that Bridge Street ran from Bay Road to the intersection with Miles River where Bridge Street breaks off and then Miles River Road is approximately 400-500 feet toward the south.

The scope of improvement would be to upgrade the existing drainage infrastructure and then the pavement would be milled and overlaid. The style of construction would be all trench work and would be 90-95 percent limited to work within the existing paved area by cutting the existing pavement, putting in the improvements being proposed, repaving the trenches and then the top 1 ½ inches of the roadway would be milled followed by a top course pavement throughout the limits of the project.

Mr. Ellison identified four resource areas that were in close proximity to the project:

1. At the riverfront area where the bridge crosses the river on Miles River Road, work would be done within 100-200 feet of the river in an area that was previously disturbed with pavement. There was no degradation to the riverfront area and all work would be concentrated within the existing roadway.
2. For the bordering land that was subject to flooding near the crossing of the Miles River, they would be milling the top coat of the pavement and putting it back in its current location so there would be no impact to the BLSF.
3. Several areas of bordering vegetative wetlands (BVW) were within the scope of the project where improvements would be located within 100 feet of the BVW's but were concentrated within the existing roadway.
4. The AURA which was specific to Hamilton where improvements would be repaving the existing Bridge Street and improving the drainage system.

Mr. Ellison added that for storm water improvements, they would add catch basins and a new closed drainage system along Bridge Street for a 400-500 foot stretch. The catch basins would have deep sumps and hoods. They also planned to add compost filter tube and erosion control with silt sacks and catch basins to eliminate the chance of sedimentation and runoff with sediment getting into the wetlands.

Ms. Cookson asked specifically where the drainage improvement would be and Mr. Ellison answered that it would start 300 feet to the east of Bay Road where there would be two new catch basins and then the new closed drainage system would be at 58 Bridge Street and 49 Bridge Street. Along Miles River Road, they would also be replacing asphalt curb with a full 6" reveal to restore the ability to convey the water to the new inlets along Miles River Road.

Elizabeth Rossetti of 172 Miles River Road said that the runoff from Gordon Conwell to Miles River Road had washed out parts of her driveway and yard for years and asked if the drain farther up the road would be fixed as part of the project. Mr. Rockwell responded that they would be installing a perforated subdrain along the edge of the pavement as well as adding some segments of curbing.

With no more comments from the Commission and the public, on behalf of the town of Hamilton, Mr. Ellison requested a continuation to the next hearing on July 14, 2021.

Motion made by Virginia Cookson that the Notice of Intent be continued to the next Conservation Commission meeting on July 14, 2021.

Seconded by Mary Lester.

Roll Call Vote: George Tarr – aye, Virginia Cookson – aye, Mary Lester – aye, and Lauren Lynch – aye.

Unanimous in favor of voting members.

Continued – Abbreviated Notice of Resource Area Delineation DEP File# 172-0623 – 133 Essex Street – Chebacco Hill Capital Partners, LLC – Confirmation of resource area boundaries at 133 Essex Street

Greg Hochmuth of William & Sparages represented the applicant, Chebacco Hill Capital Partners, LLC for a continued ANRAD hearing for 133 Essex Street. Mr. Hochmuth requested another continuance as they were still waiting for DeRosa Environmental to submit their report. Mr. Hochmuth shared with the Commission that an email was sent from Mike DeRosa on June 8th that said he would not be able to make the site walk and would likely not make the Conservation Commission meeting but would do his best to be there.

In brief, he reviewed the line with Mr. Hochmuth and members of the Commission and found no changes to the line. Mr. DeRosa felt that the line was conservative and protective of the wetland resource areas and mentioned they were also successful in finding vernal pools for salamander egg masses that could be certified under NHESP program protocols. Mr. DeRosa added that he would send his report to Mr. Hochmuth and the Commission by the end of next week. A continuance until the next hearing was requested.

Motion made by Virginia Cookson to continue the ANRAD DEP File #172-0623 until the next meeting on July 14, 2021.

Seconded by George Tarr.

Roll Call Vote: Mary Lester – aye, Virginia Cookson – aye, George Tarr – aye, and Lauren Lynch – aye.

Unanimous in favor of voting members.

Request for Determination of Applicability – 133 Essex St – Chebacco Hill Capital Partners, LLC – To use an existing woods road passing through jurisdictional areas, and install temporary steel plates over an intermittent stream.

Greg Hochmuth of William & Sparages who represented the applicant Chebacco Hill Capital Partners, LLC shared the ANRAD plan for 133 Essex Street on his screen.

Mr. Hochmuth commented that according to Mr. Vandi there was a mill between 133 Essex Street and the farm stand in the area they were interested in using. There was a large certified vernal pool there as well that ran into a stream that looked as though it had been maintained over the years. Mr. Hochmuth explained that they were proposing to put down 12 x 6 foot steel plates and erosion controls along the edges with a 12” in diameter mulch sock to protect the wetlands from any sedimentation from construction vehicles. In the RDA submitted there was a narrative proposing post access to scarify any altered areas after the plates were

removed and to seed any surfaces that need stabilization with a logging road matrix mix sold by New England Wetland Plant.

Mr. Hochmuth added that since the RDA was submitted they learned of megadeck mats that could be put down to protect the road where heavy machinery would be driven. Those mats would be removed post construction and anything along the roadway that was altered would be restored. The RDA was filed for temporary access along that portion of the property to get to the uplands on the other side of the project. The largest truck would be one ton and would not require any clearing along the access road and once across it would tow a small excavator behind it but would stay there. Dump trucks would travel back and forth making the megadeck mat option a possibility.

Mr. Hochmuth explained that they would not be accessing along the existing trail/wood road from Chebacco Road because portions of it go through the wetland. They would access from the upland area up on the hill and that would be done after roadway was roughed in for Phase 1 of the development. The plan would be to keep the trail that is there from Chebacco Road to the interior of the parcel, working hard to keep as much of project out of the Commissions' jurisdiction as possible and as currently designed the entire project was out of the buffer zone.

Ms. Cookson and Mr. Tarr expressed concern with the project being within 100 feet of the wetland. Mr. Hochmuth explained that there were erosion controls in place and with the use of steel plates, the intermittent stream would not be touched. Any areas that potentially needed attention post access would be scarified and seeded. Ms. Cookson questioned whether the project should be filed as an RDA.

Ms. Lynch asked for comment from the Save Chebacco Trails and Watershed group.

Deborah Eliason, Ellison Law Office, 63 Middle Street, Gloucester, Massachusetts represented Save Chebacco Trails and Watershed as well as Kent Wosepka commented that Ms. Cookson was correct regarding the threshold question as to whether this matter should be an RDA at all.

Attorney Eliason questioned why there would be three separate RDA's for one project and further stated that the RDA was not an appropriate vehicle for the project because it did not require the applicant to describe the impact associated with the development activity. Attorney Eliason stated further that the Commission was not provided with an opportunity to fully evaluate alternatives or what the combined cumulative effect would be.

Attorney Eliason explained that the RDA process is generally used for small projects with limited or no impact. Being that this would be a 50-unit development, one of the largest Hamilton has seen, a Notice of Intent allowed for an enforcement mechanism that would result in an order of conditions that would be recorded with the Registry of Deeds. A Certificate of Compliance would be required upon completion of the work and an as-built plan would be prepared. The purpose would be to hold the applicant responsible, and an RDA would not require the same level of accountability from the applicant or the builder.

Attorney Eliason stated further that under the RDA, applicants were not required to be notified of filings and requested that the Commission require the applicant when they file anything to also file with Attorney Eliason or Mr. Cole who is the President of the Save Chebacco Trails and Watershed.

Mary Rimmer of Rimmer Environmental Consulting reported that she had submitted written comments to the Conservation Commission this afternoon and felt that additional work needed to be done regarding the impact of this project. Ms. Rimmer's comments were as follows:

1. There was currently an outstanding Order of Resource Area Delineation so the actual wetland boundary in this location had not yet been confirmed.
2. Due to several of the interested parties not being able to attend this evening's Zoom meeting, there would be a public notice issue and a continuance would need to be requested.
3. The purpose of the project had not been fully described other than access was needed to another portion of the site.
4. The RDA did not specifically identify the nature or type of equipment that would be used, the purpose of the access or whether the access would be temporary or permanent?
5. The work would be within buffer zone to the vernal pool and there was not a request for any waiver to the no-disturb zone associated with the vernal pool in this area.

Ms. Rimmer recommended that the Commission consider a positive determination with a Notice of Intent combining all of the work proposed so that the project could be conditioned to protect the wetland resources that are within the Conservation Commission's jurisdiction.

Ms. Lynch opened up the meeting for abutter comment and no comments were offered. Ms. Lynch then opened the meeting up to the public for comment and no one commented. Ms. Cookson commented that the Commission would need the wetland line resolved before it could be voted on and asked the applicant for a continuation.

Mr. Hochmuth requested a continuance of the RDA to enable those that were not able to attend this meeting to attend the next meeting review of the project.

Motion made by Mary Lester to continue the 133 Essex Street hearing until the next Conservation Commission meeting on July 14, 2021.

Seconded by Virginia Cookson.

Roll Call Vote: George Tarr – aye, Mary Lester – aye, Virginia Cookson – aye, and Lauren Lynch – aye.

Unanimous in favor of voting members.

Attorney Jill Mann responded to Attorney Eliason's commentary and commented that they did present information and were transparent with their plan. Attorney Mann stated further that

they filed RDA's because there would be no impact to the wetland and suggested they do a site walk with the Commission to show exactly where the work would take place. Attorney Mann added that there would be no back and forth once the system was in place, only if the system needed replacement which was typically 50 years after installation.

Request for Determination of Applicability – 133 Essex St – Chebacco Hill Capital Partners LLC – To conduct directional drilling underneath jurisdictional wetlands for the purpose of installing a sewer line

Greg Hochmuth of William & Sparages represented the applicant, Chebacco Hill Capital Partners, LLC shared the ANRAD plan for 133 Essex Street on his screen to share exactly where the drilling would take place.

Mr. Hochmuth explained that they did a series of test bits by hand and were able to get to adequate depth without encountering ledge. With the force management there would be a 2 inch high density poly ethylene (HDPE) which would be a continuous length of pipe and a 4 inch HDPE sleeve for added protection and by going under the wetland, they would completely avoid impact on surface soils or surface vegetation.

Adam Towne of DBU Construction explained that they would use a drill head with sonde housing that would give feedback for depth, pitch, and temperature and the drilling would be virtually impact free. They would make a pilot hole and once it was at the exit pit, it would be sized with back reamer to make the hole according to the size of the pipe being installed.

Ms. Lester asked Mr. Hochmuth if there had been a resource management plan for the ACEC going from Ipswich to Essex underneath the Castle Neck River and he was not sure. Mr. Colleran added that any additional material that Mr. Hochmuth could share with the Commission regarding past drilling projects under wetlands would be helpful.

Attorney Eliason commented on behalf of Save Chebacco Trails and Watershed that because there were three separate requests, she would need to address the same issues that were addressed in the last one for the record. Attorney Eliason reiterated that there should be one NOI rather than three separate RDA's. An NOI would show the whole scope of the project and allow full evaluation and alternatives to determine combined and cumulative effects.

Ms. Rimmer questioned whether there was geotechnical data that the applicant had collected to determine what the subsurface geology was at the location and whether they were going through rock or soil. Ms. Rimmer expressed concern regarding the diversion of groundwater, what materials would be used for drilling including the drilling fluids and the bentonite in the western meter pit that was proposed within the buffer zone to the vernal pool. Ms. Rimmer requested the Commission issue a positive determination for this project due to the potential for significant impacts to the existing wetland resource.

Mr. Hochmuth explained that erosion controls and the no-disturb zone from the vernal pool were shown on the plan. Both meter pits and the erosion controls were outside of the 100-foot buffer zone and the 100-foot no-disturb zone. Minimal dewatering would be done and it would be pumped into a truck and hauled offsite. Mr. Hochmuth told the Commission he would put together a letter that documented his find.

Attorney Eliason added that with a Notice of Intent versus a Request for Determination of Applicability, an order of conditions would be memorialized and the builder and the developer would need to follow the conditions as they would be enforceable.

Attorney Mann explained that the RDA was requested because they were not in the wetland and they were outside of the Conservation Commission's jurisdictional area. All of the information was provided on exactly what would be done with full transparency.

John Cole of 66 Chebacco Road expressed concern with a water truck being driven down the small trail road and added the need for different restrictions to be tied to the project. Mr. Towne responded that they would use a mini-excavator to dig the pit with a small trailer that would have reels of pipe on it and a track fusion machine that weighed about 3,000 pounds that would fuse some of the sleeve pipe together.

Attorney Eliason requested that Conservation Commission Members should understand that all of the details and promises would not be in the RDA or the plan. An NOI would ensure how the work would be done with conditions and an order of conditions.

Mr. Towne offered to present the Commission with a drilling plan that had every part of their process outlined. Ms. Lynch agreed that it would be helpful to see the plan in writing.

Al Degroot of 193 Chebacco Road asked what the long-term liability issues would be if something went wrong and the wetland was impacted down the road. Mr. Degroot also expressed concern with why the Planning Board did not issue permits and felt that the process was confusing by not being all tied together.

Louis Brown of 296 Essex Street questioned whether the 2 inch pipe would be large enough to carry effluent down the hill from 50 units and asked to see the plans. Mr. Hochmuth explained that the 2 inch forced main would carry fluids and not solids which would remain on the Chebacco Road side of the property. Mr. Hochmuth commented that the Board of Health would be presented with those plans which would be made public.

Mr. Cole asked how the Conservation Commission could approve the project without seeing the total plan and understanding it even though it was said to be outside of their jurisdiction. Ms. Lynch agreed that understanding the whole plan versus small pieces of the plan would be critical to their decision making.

Attorney Mann offered that they were in the process of filing with the Planning Board and that those plans would hopefully be made public this week.

Ms. Cookson commented that the ANRAD needed to be completed before any other decision could be made on this project. Ms. Cookson explained further that the buffer would be considered an upland resource area because what happened in the buffer could affect the resources and it would therefore be within the Conservation Commission's jurisdiction. Ms. Cookson added that an NOI would be needed and the Commission could decide to make a positive determination. Under the bylaw the Conservation Commission could write special conditions for the project that could be referred to if need be.

Ms. Lynch requested the applicant to delay the decision until the next meeting on July 14, 2021 because the ANRAD would need to be completed first.

Mr. Hochmuth requested a continuance and both the Commission and Mr. Hochmuth agreed to do another site visit before the next meeting on July 14, 2021. Ms. Lynch agreed to post the date and time for the next site visit.

Motion made by Mary Lester to continue the RDA for directional drilling at 133 Essex Street until the next meeting on July 14, 2021.

Seconded by Virginia Cookson.

Roll Call Vote: George Tarr – aye, Mary Lester – aye, Virginia Cookson – aye, and Lauren Lynch – aye.

Unanimous in favor of voting members.

Request for Determination of Applicability – 133 Essex St – Chebacco Hill Partners, LLC – To extend a water main within the paved surface of Chebacco Road along a portion of the frontage of 133 Essex Street, Assessors Map 65, Parcel 1

Greg Hochmuth of William & Sparages represented the applicant, Chebacco Hill Capital Partners, LLC for the RDA filed to extend a water main through the paved portion of Chebacco Road, portions of which were within the Conservation Commission's jurisdiction. Mr. Hochmuth explained that they would like to put in a duct line water main within a trench that would go down a minimum of 5 feet at the existing culvert crossing and 18" below the culverts. The work was described as a minor activity in the Wetlands Protection Act regulations, 310 CMR 10.02 2B21.

At the culvert crossing there would be two 24" high density poly ethylene culverts that would go under the proposed water main extension with vacuum trucks on standby in case there was a need to dewater. Following the installation of the water main, global fill would be used to ensure that there was no settling after the pipe itself was back-filled. Erosion controls, 12" diameter mulch socks, would remain in place on both sides of the road during the entire project until the Commission or agent granted permission for their removal. When the trench was back filled each day, those portions would be covered with plates and any additional material

on the pavement would be swept up to avoid potential for sedimentation in the adjacent resource areas.

Ms. Eliason reiterated that three RDA's for the same project would not allow a comprehensive picture of what was going to happen whereas an NOI would allow for the best methodology for controlling the project and making sure that Chebacco Hill Partners LLC would be held accountable for all that they said was going to be done.

Ms. Rimmer cautioned that it was not exactly clear what the impact would be to the wetland because the depth of the excavation was an estimate and if ledge was encountered that would require blasting it would change the ability to backfill the trench each day. Ms. Rimmer also stated that the Wetland Bylaw provision did not apply because they would be much closer than 50 feet to the wetland on both sides of the road. More detail would be needed on methods of construction and how impacts would be mitigated during construction.

Mr. Cole said that across from their house at 66 Chebacco Road there was solid granite ledge coming out of the ground and asked Mr. Hochmuth how they would handle the bedrock. Ms. Cookson commented that much of it was glacial till which is why septic systems cannot be there as there was no way to leach them. Mr. Hochmuth did not anticipate that they would need to go through it.

Attorney Mann reiterated that they were filing an RDA because they were not impacting the wetland by going through the street and would not be in an area that was undisturbed resulting in no risk to the wetland.

Mr. Hochmuth requested a continuance until the next Conservation Commission meeting on July 14, 2021.

Motion made by George Tarr to continue the RDA at the next Conservation Commission meeting on July 14, 2021.

Seconded by Mary Lester.

Roll Call Vote: George Tarr – aye, Virginia Cookson – aye, Mary Lester – aye, and Lauren Lynch – aye.

Unanimous in favor of voting members.

Notice of Intent – 18 Alan Road – Ryan McShera – To construct an addition to a single family home, and conduct renovations

To be continued to the next Conservation Commission meeting on July 14, 2021 as the applicant was no longer at the meeting.

Motion made by Mary Lester to continue the Notice of Intent at the next Conservation Commission meeting on July 14, 2021.

Seconded by Virginia Cookson.

Roll Call Vote: George Tarr – aye, Mary Lester – aye, Virginia Cookson – aye, and Lauren Lynch – aye.

Unanimous in favor of voting members.

Minutes:

4.28.21 Executive Session, 5.12.21, 6.9.21

Motion made by Mary Lester to approve the 4.28.21 Executive Session minutes.

Seconded by Virginia Cookson.

Roll Call Vote: George Tarr – aye, Mary Lester – aye, Virginia Cookson – aye, and Lauren Lynch – aye.

Unanimous in favor of voting members.

There was a question as to whether the minutes of 5.12.21 were previously approved and the Commission decided to hold off on their vote to approve those minutes until they clarified that they were not already approved.

Motion made by Mary Lester to accept the minutes from June 9, 2021.

Seconded by George Tarr.

Roll Call Vote: Lauren Lynch – aye, Mary Lester – aye, and George Tarr – aye. Virginia Cookson abstained as she had not been able to access the minutes on her drop box.

Unanimous in favor of voting members.

Discussions:

- **Request for a Certificate of Compliance – DEP #172-0598 – Landfill Solar Transmission Poles – Chebacco Road**

Mr. Colleran walked the line with the company representative and felt that the project was fine and recommended the Commission approve the Certificate of Compliance.

Motion made by Virginia Cookson to issue a Certificate of Compliance for DEP #172-0598 for the landfill solar raised connection to the power grid on Chebacco Road.

Seconded by George Tarr.

Roll Call Vote: Mary Lester – aye, George Tarr – aye, Virginia Cookson – aye, and Lauren Lynch – aye.

Unanimous in favor of voting members.

- **New CPC Representative**

Mr. Colleran explained that Chris Currier was the CPC Representative and confirmed that he would like to be reappointed to the Conservation Commission by the Select Board but would not like to be the Community Preservation Act representative.

