



**Town of Hamilton
Conservation Commission**

Meeting Minutes of October 11, 2023
Town Hall, 577 Bay Road

Pursuant to the Open Meeting Law, MGL Chapter 30 A, §§ 18-25, written notice posted by the Town Clerk delivered to all Commissioners, a meeting of the Hamilton Conservation Commission was posted for October 11, 2023 at 7PM via Zoom. *This meeting was recorded.* Commissioners: Sandy Coddling, Virginia Cookson, Kathy Simons, Deb Thompson, Lauren Lynch, Lee McCoy; Mike Stoltzfus.

Call the meeting to order: *With a quorum present Vice -Chair, Simons called the meeting to order at 7:04 PM, identified the meeting was being recorded and those present: K. Simons, Vice- Chair; V. Cookson (joined 7:12pm); D. Thompson; Sandy Coddling, M. Stoltzfus, L. McCoy. Not present: L. Lynch. Others present: Brian Colleran, Conservation Commission Coordinator; and others as noted in the minutes.*

Minutes:

• **Approve the minutes of August 9, 2023**

The minutes were deferred to the next meeting.

Public Hearings: None

Enforcement Orders:

• 37 Knowlton Street (Map 65, Lot 47) - issued September 13, 2023, dumping of soil, vegetation waste

The Commission has not been able to conduct a site visit as of yet. The new Conservation Commission Coordinator starts on October 16. On the site visit, the new agent should do the site walk and do the educational portion of informing the homeowner of expectations, and she should have a plan in mind prior to the next meeting. This homeowner has a history from 20 years ago, of filling in wetland areas, and has some experience with the process. V.Cookson will do the site walk, but would like someone to accompany her, possibly the new agent.

Discussions:

• **Existing Order of Condition, Request for 1 year extension – HWRHS Athletic Fields Improvement**

Kathy Hervol, Gale Associates, spoke on behalf of the Hamilton Wenham Regional School District requesting another extension for the Order of Conditions; this would be the last extension request. The funding for the project has been approved by the Town. They have committed to monitoring and testing for PFAS in the wetlands and the stream channel, as well as testing of the turf materials. They had two projects this summer where testing was done on turf and infill and the results came back as non-detect. She showed the overhead site view and pointed out the sites that will have turf, and showed the wetland delineation. Background sampling will be done on the stream to determine any existing PFAS, and in the event that there is detectable change in PFAS as a result of the project, they would be in violation and would work with the Town in how to correct it. The athletic fields project was permitted in two separate orders, the current request is for one of those orders including the stadium and baseball field. The other areas were discussed six months ago in a separate order. B. Colleran recommended tying the two permits together through a request to amend since it will be constructed as one project, to simplify the requirements for all parties involved. It was noted that the science has changed over the course of these approvals and there is more solid evidence around PFAS and turf, and it would make sense to have one set of conditions for both permits. B.Colleran clarified that the extension and possible amendment are different issues, and an amendment has to be requested by the applicant. He thinks it would be much cleaner regulatorily to have one permit and one set of conditions, but it cannot be required by the Commission. The order for the stadium and baseball field do not include the same requirements for testing and monitoring. Currently one set of conditions is much more stringent than the other. Discussion continued about the overall project, the two orders, how to move forward, and what the applicable laws are, while also acknowledging that there many stakeholders with many concerns and opinions. B. Colleran clarified that the State Law is the minimum standard, but if the Town bylaw is more stringent, it becomes the threshold. In this case, he does not see a reason to deny an extension because of the following: the applicant is acting in good faith, the applicant is agreeing in principle to the PFAS controls discussed, there are other entities in Town paying attention to this (such as Planning Board), and should PFAS be found to be over the threshold in the other areas it would bring the construction to a halt anyway. He believes the protections are there, and denying the extension would not resolve the other issues raised.

Vote: *The Commission voted 4-1-1 by roll call to approve the extension.*

- 161 Bridge Street (58-6-53) – issued March 14, 2023, erosion and sedimentation
- 181 Bridge Street (58-8-53) – issued March 14, 2023, erosion and sedimentation
- 185 Bridge Street (58-9-53) – issued March 14, 2023, erosion and sedimentation

B. Colleran went on a site walk of Bridge St with Mark Arnold, he showed the Commission a map of the site walk and explained what they did and the results of the measurements they conducted. They did not find any sediment layer at the causeway crossing. The plume of soil that reached that point did not leave any detectable sediment layer. In the area of the culverts, there is an inch or half inch of sedimentation, and various depths of sediment in the surrounding area. The grass seems to be catching the sediment, but everything seems to be growing. The most deposition was in the marsh with standing water. Removing the deposited sediment, particularly where it was not that thick, could cause more damage to try and remove it, and other compensatory restoration and remediation could be considered instead. 90% of the impact to the area has been on Town-owned land. Tonight is an information update; the Commission can deliberate and decide next steps. The Commissioners could ask EPA or DEP for technical assistance if they wish to. If the Commission would like to hire a hydrologist to review the situation, that is possible as well. The next time this comes up for discussion, the Commission can either decide to amend the enforcement order to do the plan presented, or they can be very specific about what else they want and what it not being addressed, with the option to require the landowner to submit a notice of intent. The enforcement order is more useful in telling the landowner what to do, but the Certificate of Compliance regulatory process would require a notice of intent.

- **Katherine McDonough** of 49 Bridge St came to the meeting at the request of B. Colleran to ask about removal of trees on her property. V. Cookson had previously visited the site and opined that as they are close to or in the wetland area she believes they need to submit a request for determination by submitting the appropriate forms on the Town website.

- **26 Appaloosa Lane (Map 60, Lot 121) – issued August 21, 2023, removal of trees in a resource area**

The homeowner did not attend the meeting, though the Commission had expected someone to attend. The homeowner cleared a significant number of trees. L. McCoy opined that in general, new homeowners should be appraised of the fact that they are buying land that is under a CRA (Conservation Restriction) and understand the restrictions on the property. B. Colleran noted that there is no overlap between the regulatory body and real estate process, so that would not be an easy fix. V. Cookson reported on a phone conversation with the homeowner that was challenging, and that the homeowner argued about the presence of wetlands. M. Stoltzfus noted that he lives nearby and observed that this was a significant disturbance to the land with a lot of tree clearance and potential fill, which could easily be measured. B. Colleran suggested an educational approach led by the agent talking with homeowners to start with, for the purpose of educating them on the regulations before moving to enforcement orders. This was a mild enforcement order noting that what they did was not ok, and requesting follow-up. He noted that unpermitted fill is considered an “evergreen” violation, in that there is no time limit to when the violation expires, there is no statute of limitations. Additionally, different enforcement orders can be issued for different violations that fall under state vs. local bylaws. The homeowners bear the responsibility for having the wetland delineation. B. Colleran noted that Town employees cannot perform assessments for homeowners, they can only offer opinions. B. Colleran will follow up with the homeowner and encourage them to submit a complete notice of intent. Any Commissioner or the agent can issue an enforcement order, but it is not ratified until it has been voted by the Commission. The Commissioners noted that the property had been clear-cut based on the photos prior to the sale of the home showing a fully forested property.

Vote: The Commission voted unanimously by roll call to ratify the enforcement order for 26 Appaloosa Lane.

Discussions:

Regulatory Update on Conservation By-Law – This was deferred for lack of time.

Conservation Office: Miscellaneous Updates

- Next meeting: October 25.

Adjournment – *The Commissioners voted unanimously by roll call to adjourn at 10:09pm*

*Respectfully submitted as Approved at meeting of May 8, 2024 by K. Simons,
Hamilton Conservation Commission Vice Chair, on May 8, 2024*