

FINAL – Approved by the Conservation Commission at their August 9, 2016 Meeting

**Town of Lakeville
Conservation Commission
Tuesday, June 14, 2016
7:00 PM – Lakeville Library**

On June 14, 2016, the Conservation Commission held a meeting at 7:00 PM at the Lakeville Library. The meeting was called to order by Chairman Bouchard at 7:00 PM. Members present: Robert Bouchard, John LeBlanc, Joseph Chamberlain, Peter DeFusco, Mark Knox, Derek Maksy, and Martha Schroeder, Katherine Goodrow-Robinson (enter at 7:15 PM), Associate and Nancy Yeatts, Conservation Agent and Christine Weston, Recording Secretary. Sarah Kulakovich, Associate, was absent. LakeCAM was recording the meeting.

7:00 PM

RDA – TEC Associates, Mass Coastal Railroad Right-of-Way

Chairman Bouchard read the notice into the record.

Ms. Yeatts, Conservation Agent stated that the RDA was similar to the previous one that the Commission had just reviewed. The RDA meets the exemptions and should be determined as a Negative 5. *(The area described in the Request is subject to protection under the Act. Since the work described therein meets the requirements for the following exemption, as specified in the Act and the regulations, no Notice of Intent is required.)*

Ms. Grubb mentioned that she has noticed with the sub-watershed on Bedford Street, the culverts are blocked and backed up. They do not seem to have been maintained by those doing the work for the freight companies. The culverts should be cleaned of any lingering debris, sticks, rubbish, etc., and any vegetation pruning should not be left so that it can later blow into or drift into the culverts from rain. Ms. Grubb encouraged the Commission to go out and view the culverts. She stated that the Commission would need to have someone accompany them who has the authority to be out there. In the past trainings have had to be taken in order to be able to visit these areas, yet the certification is only good for one (1) year. Chairman Bouchard stated that the Commission should receive a report that the culverts have been cleaned. Member LeBlanc asked to make the RDA contingent upon cleaning the culverts. Chairman Bouchard stated that the Commission cannot put conditions on an RDA. Ms. Yeatts explained that conditions can be suggested for an RDA. With an NOI conditions are enforceable. Member Chamberlain suggested that photographs be provided as evidence that the culverts have been cleaned.

Upon a motion made by Member Maksy; seconded by Member LeBlanc it was:

VOTED: To close the hearing and issue a Negative 5 Determination requesting that follow-up documentation be provided of the vegetation clearing, that no debris be left in the culverts and that the culverts would be cleared of any existing debris.

Unanimous in favor

Simplified Permit – Rush Pond Road/Town of Lakeville

Ms. Yeatts explained that the work taking place at Rush Pond Road is a town project. She had done a site visit with the Superintendent of Streets, Jeremy Peck. Mr. Peck marked the areas with his spray paint. The siltsock lines will start as marked on the map and continue around to the end. A colored handout of the area was provided by the Agent. Member Schroeder asked for the Agent to describe what qualifies for a simplified permit. Ms. Yeatts responded that it is typically paving of pre-existing driveways, dead trees, a side door for a house on the pond etc. It depends on what is being asked for. All simplified permits are kept in a folder in the office depicting the year that they were given. Ms. Yeatts further explained that typically, Mr. Darling, Building Commissioner, will send the person asking about what can be done, upstairs to the Conservation Office where the work looking to be addressed is discussed and a decision made. Simplified permits are not given for anything closer than 50 feet of the buffer. The filing fee is \$50 and it is not necessary to give abutters notice. If the work needs Natural Heritage approval, a Simplified Permit cannot be given.

Upon a motion made by Member LeBlanc; seconded by Member Chamberlain it was:

**VOTED: To approve the Simplified Permit for Rush Pond Road for paving.
Unanimous in favor**

WaterStreet 40B - Poillucci - Zenith

Jamie Bissonnette, of Zenith Consulting Engineers, LLC, was present for the discussion. Mr. Bissonnette presented a plan of the change regarding the reshaping of the detention basin in order to preserve a line trees which will provide a buffer zone to the neighbors in the back. Mr. Bissonnette stated that the erosion control is up and Ms. Yeatts has been onsite to view it. The Agent then provided pictures showing the silt sock erosion control that is in place. Mr. Bissonnette stated that the basin meets all the design flow constraints. On the plan the original basin design and new basin design were shown. Both designs hold the same volume. Ms. Yeatts explained what typically happens when a field adjustment has to be made the modification will show up on the as built. If the applicant was required to change the plans at this time it would require a complete refilling simply to note the adjustment. Member Chamberlain asked about the complaint that had been received via email. Ms. Yeatts stated that originally when the neighbor called she had gone out to speak with him and view the site. There was no work taking place in the buffer zone or near the wetlands. It is not known why he has filed a complaint with the DEP. A site visit took place last Thursday (June 9, 2016). Mr. Poillucci stated that his original filing was to have a smaller basin, however, neighbors had attended the hearings and stated that there was not enough drainage on the street, thus he expanded the detention basin in order to accommodate additional water.

Upon a motion made by Member Maksy; seconded by Member LeBlanc it was:

**VOTED: To take the letter received from an abutter/neighbor to the property under advisement and the Agent will manage any matters that arise.
Unanimous in favor**

Upon a motion made by Member Maksy; seconded by Member Knox it was:

**VOTED: To accept the plan as presented as not of substantial enough change to require a refiling of the project.
Unanimous in favor**

COC 119 Hackett Avenue - Khudairi

Ms. Yeatts provided pictures for the Commissioners to view from the site visit that she had conducted at 119 Hackett Avenue. She stated that the septic system is very good, however, the “rain gardens” that were to be done for compensatory storage, were not completed. The applicant had built a huge house onto a small cottage which took up additional space on the lot. Copies of the plans for the proposed micro pool were also distributed to the Commissioners. The micro pool had been planted, however, it was not taken care of and has died, therefore; there is only loose dirt in the areas where plants should be growing. The applicant needs to comply in order to receive a COC. They have been notified what needs to be done and the Agent will follow up with a letter.

Report: Agent: 5 Pine Haven

Ms. Yeatts stated that she had received an email from Julie Townsend about taking down some trees at 5 Pine Haven. The Agent conducted a site visit to view the trees. It was found that an NOI was filed but the work had not been completed. The new house had not been built and the cottage had not been razed. The four (4) trees requested to be taken down are very large, tall, healthy white pines. The trees are extremely close to the cottage where the Townsend’s live with their young child. It was thought that the trees were dead prior to the site visit. Since the trees are not dead, a Simplified Permit cannot be issued. The applicant has stated concerns of hurricanes and ant infestation in the trees. After brief discussion it was the consensus of the commission to have the Agent to speak with Ms. Townsend about filing an RDA.

End of Sandy Point Road - Cabral

Ms. Yeatts stated that she had received communication from Emily Holt of the Natural Heritage & Endangered Species Program about the RDA that they had received from Zenith Consulting Engineers for Craig Cabral. Copies of the letter were provided to the Commissioners. Ms. Holt stated that the application is incomplete and does not contain all of the necessary minimum information specified in 321 CMR 10.20. They are requesting:

** Project plans for entire site, showing existing and proposed conditions and clearly demarcated limits of work, including the location of the proposed access path and vista pruning, which were not depicted on the submittal plan.*

Other Business

1. Town Meeting/discussion of Citizens Petition/Wetland Bylaw

The letter from Member Schroeder was distributed. Member Schroeder stated that at the Town Meeting on Monday, June 6, 2016, she had not been able to hear everything that Member Maksy had said, therefore, when she read in the newspaper that she was being accused of violating the Open Meeting Law she was stunned. She stated that she had contacted the people from the state, explained the matter, and it seems that there is not a problem. She stated that the Town meeting had been upsetting and though the bylaw may not have been perfect, the reason for it to be brought forward was to let the citizens know about the need to protect the wetlands. Since she had been accused in the press she had put the letter together. She asked to read the letter into the record. Member Maksy stated that there is slander in the letter and accusations. It is a subjective letter and it is not from the commission.

A motion was made by Member Maksy not to read the letter because it is irrelevant. The motion was seconded by Member LeBlanc.

Member Knox stated that he would let Member Schroeder read the letter. Member Maksy stated that the letter is a personal attack. Chairman Bouchard stated that historically the Commission has accepted letters from people outside the commission. Member Maksy stated that this is not a conservation issue, it is about a petition that came before the Town. He stated that he has read the letter and will have his attorneys look at it. Ms. Grubb stated that she had worked with Member Schroeder on the petition and believes that statements at town meeting about the petition were at the least, misleading and should be discussed. At Town Meeting the Moderator allowed three (3) individuals, including Mr. Maksy, to stand up and make comments that were misleading before a motion to table was made and passed. No one was allowed to stand up and dispute what Member Maksy and the others had said. Ms. Grubb stated that the bylaw had been misrepresented and she has the right to dispute Member Maksy's comments. A hearing was not held about the bylaw since Member Maksy had insisted that it was not the Conservation Commissions responsibility to hold a hearing. The petition was involving wetland issues and there has never been a citizens petition before that a hearing was not held by the town department or board that was going to have some sort of control over it if it passed. Chairman Bouchard stated that he is trying to listen to both sides, which did not happen at Town Meeting. Chairman Bouchard conveyed that he was giving Member Maksy the courtesy of listening to his motion. He otherwise could not say in advance how he would vote. Member Maksy asked if it was the opinion of the Chair that the Conservation Commission should vote on something that has nothing to do with the Commission. Chairman Bouchard stated that it has everything to do with the Commission. Member Schroeder stated that she only wanted the public to hear it because Member Maksy had stated that no public hearings were held. The topic was on the agendas, so what kind of public hearings did Member Maksy want? Member Maksy stated that the topic was not posted, it was under other business. Member Chamberlain stated that he did not see a lot of difference between this letter being read into the record and that of the letter that was filed regarding Bob Poillucci's project. Member LeBlanc asked how does one stay objective when being accused of something? Member Maksy is being accused. So, what is the purpose of reviewing this letter? What is the Conservation Commission being asked to do?

Member Schroeder responded that it is to evaluate if Member Maksy is being completely objective, or is he disinterested in the resources that we as a Commission are assigned to protect. She added that the letter was also sent to the Board of Selectmen. Member Chamberlain stated that as one of the creators of the citizens petition, Member Schroeder wants the letter filed in the wetlands bylaw file. *Member Schroeder stated that she just wants it to be part of the record that there is another opinion of a member that objects.*

A motion was made by Member Maksy to revise his motion to accept the letter into the record but not read it. This motion was seconded by Member LeBlanc. Unanimous in favor

Ms. Yeatts asked that since the letter was accepted into the record, is it attached to the minutes? Member Maksy stated that it would be part of the wetlands file. Ms. Grubb stated that it goes with the file and with/as part of the minutes. Ms. Yeatts stated that the letter had been received as an email and it is now part of the public record. Member Chamberlain stated that it is not like the Commission is trying to do something new by having a wetlands bylaw. There are 351 towns in Massachusetts and 54% of them have local wetlands bylaws. Some cities/towns have had them for 30 years and some are even 40 pages long. Projects are going along in those cities/towns which have a local wetlands bylaw. He stated that he did not understand why people in Lakeville are so opposed to it.

Ms. Grubb stated that she would like to address the comments that were made at the Town Meeting, since she feels that the wetland bylaw was misrepresented. It was referred to as an upland bylaw and it really just established.....Member Maksy stated that it is not the Conservation Commissions petition. Ms. Grubb stated that there were a number of misstatements made. Chairman Bouchard stated that the statement that Mr. Markson made said that the Conservation Commission is against it. The Commission did not take a vote, so that was not factual. The Commission was neither for nor against the petition. Member Knox stated that he did not fully disagree that it may have been misinformation, propaganda, but it was not a well drafted by law from a legal standpoint. Ms. Grubb stated that there was an official vote taken by the Conservation Commission in 2013 that an official bylaw is needed. That is why, she had gone with the citizens petition recently because since certain members were appointed the Commission was not able to get anything like a bylaw developed. In 2006 a wetlands bylaw was voted down by the town and in June 2016, the town voted to table indefinitely this most recent bylaw. Member Schroeder stated that she will not disagree that this recent bylaw had some flaws, however she had really felt and hoped to have discussion on it with the Commission. If someone said it was flawed, she would have tried again or withdrawn it.

Chairman Bouchard stated that whether the Commission was for it or against it, it was wrong not to talk about it. He believes that this was an error in judgment by the moderator. No one had a chance for rebuttal at the Town Meeting. Chairman Bouchard stated that also, as part of Robert's Rules of Order, there should have been rebuttal allowed. Member Maksy stated that it is under Town Meeting Time regulations during Town Meeting. Ms. Grubb added that a General Bylaw does not go through the Attorney General.

Chairman Bouchard stated that he feels that a lot of people were misinformed. Ms. Grubb stated that since it was not voted on, and it was tabled, there is not a two year waiting period. Member Maksy stated that it does have to wait two years, Ms. Grubb needs to ask Ms. Garbitt, Town Administrator.

Ms. Goodrow-Robinson asked if the bylaw would always be voted in a town meeting? Member Chamberlain responded that bylaws have to be passed town meeting. Ms. Grubb stated that *only* 5% of the residents were at the town meeting representing the Town.

2. Approve meeting minutes of May 10, 2016, May 24, 2016, February 11, 2014, February 25, 2014, June 10, 2014, July 8, 2014, June 11, 2013 and December 10, 2013

Upon a motion made by Member Maksy; seconded by Member Chamberlain it was:

**VOTED: To amend the Conservation Committee meeting minutes of May 10, 2016 as per the letter provided by Ms. Kulakovich.
Unanimous in favor**

Upon a motion made by Member Maksy; seconded by Member LeBlanc it was:

**VOTED: To approve the Conservation Commission meeting minutes of May 24, 2016 as presented.
Unanimous in favor.**

The secretary stated that she will gather any comments provided by the Commissioners about the previous minutes, research Vimeo for the meetings, compare and connect the minutes with their agendas and provide a summary regarding the six (6) outstanding sets so that the Commission will be able to approve them as presented so that they can be uploaded to the website.

3. Pay Bills (if necessary)

The invoices were distributed, reviewed and signed by the commission.

Schedule next meeting.

Discussion took place regarding the next meeting of the Conservation Commission scheduled for Tuesday, July 12, 2016. Due to scheduling conflicts it was the consensus of the Commission to reschedule the meeting date to Thursday, July 7, 2016.

Adjournment

Upon a motion made by Member LeBlanc; seconded by Member Knox it was:

**VOTED: To adjourn the Conservation Commission meeting at 8:28 PM.
Unanimous in favor**

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