

**Hamilton Conservation Commission  
Minutes of Meeting of March 23, 2011  
Meeting held at Hamilton Town Hall**

Commissioners present:

Nancy Baker (until 9:25 p.m.), Virginia Cookson, 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, Essex St., prospective candidate for Commission

The Commission is scheduled to meet at 7:30 p.m. on April 13 and 27, 2011. Site walk is scheduled for Saturday morning April 9.

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Richard Luongo opened the meeting at 7:35 p.m.

Conservation Coordinator Jim Hankin noted that prior to this meeting, commissioners received copies of material regarding Ch. 43D, a 2006 state law that municipalities can adopt to streamline permitting procedures for large commercial or industrial development. He said the Hamilton Board of Selectmen is considering asking Town Meeting to adopt Ch. 43D and has asked all Town boards and committees to review this law and comment on how it could affect each board's role in the permitting process. Commissioners also received a draft revision of the Commission fee schedule, and a copy of the section of local regulations that define No Disturbance and No Build Zones.

Robert Cronin made a motion for the Commission to approve the minutes of the meeting of Feb. 16, 2011, as presented. Peter Dana seconded the motion. VOTE: Unanimous.

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Request for Determination

318 Forest Street

Virginia Cookson, applicant

Remove one damaged tree and perform other site work

Commissioner Virginia Cookson recused herself from consideration of this matter, in which she is the applicant. Speaking from the audience, she told the Commission that a tree at the back corner of her property, at the edge of wetlands, is leaning toward her house, and she and an arborist agree that it is likely to fall soon, and likely to hit her house. She requested permission to cut down the tree. She informed commissioners that nearly all of her property is within the associated upland resource area (AURA).

She also described damage to the front of her property, caused by a water main break in front of her house on Feb. 1 which sent a channel of high-pressure water across her stone and gravel driveway, cutting a channel into it and replacing those materials with sand carried by the water from the broken main. The driveway is close to wetlands. She reported that the Hamilton

Department of Public Works superintendent told her that department would repair the damage in the spring. She said she thinks it will be necessary for workers to remove a Quonset hut-style garage structure from the driveway before the DPW makes repairs, and then replace the garage structure afterward.

After discussion, commissioners concluded that the DPW, not Ms. Cookson, should file with the Commission regarding repair of the damaged driveway.

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

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Certificate of Compliance

Veranda Circle and Villa Road

Essex County Trails Association (ECTA), applicant

Install beaver deceiver; DEP file#172-461; recorded 11/12/2004 Book 23617, Page 579

Conservation Coordinator Jim Hankin recapped the details of this project. In 2004, the Commission granted an Order of Conditions for ECTA to have Skip Lisle install a beaver deceiver in wetlands at 10 Villa Rd., near Beck's Pond. That property has been sold, and a Certificate of Compliance has been requested. Mr. Hankin said he last viewed the area in 2010, at which time he found the structure intact, and no evidence of any negative impact of the project on the wetland resource area. He said the beaver deceiver appears to be in compliance with the terms approved by the Commission.

Nancy Baker asked how well the beaver deceiver has held up. Mr. Hankin said that it is operating, but not as well as it should, and that if it had been left alone it would have worked better. Ms. Baker asked whether maintenance and follow-through occurred. Mr. Hankin said that ECTA is not maintaining the beaver deceiver off Villa Rd., which is in wetlands near a trail system that no longer is in use because it has flooded; however, under the trail management plan to which ECTA and the Commission agreed after the installation of the Villa Rd. beaver deceiver, review and maintenance of other beaver deceivers that ECTA subsequently installed occurs reliably. Ms. Baker suggested the Commission talk with ECTA about the language in that plan when it is up for renewal, to make sure the plan specifies that ECTA is responsible for maintaining beaver deceivers it arranges to have installed.

Virginia Cookson made a motion for the Commission to issue a Certificate of Compliance. Ms. Baker seconded the motion. VOTE: Unanimous.

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Certificate of Compliance

240 County Road, Route 1A (Ipswich address)

New England Biolabs, applicant

Reconstruct footbridge and associated site work in Hamilton and Ipswich; DEP file #172-0487; recorded Book 26172, Page 354

Conservation Coordinator Jim Hankin recapped the details of this project. New England Biolabs filed with the conservation commissions of both Hamilton and Ipswich for permits to rebuild a footbridge across the Miles River, which constitutes the town line at that site. Biolabs requested and received several permit extensions. The project was completed some time ago. Mr. Hankin

said the brick bridge is nicely constructed, and he observed no evidence of damage to the resource area and riverbank. He recommended the Commission issue a Certificate of Compliance.

Virginia Cookson made a motion for the Commission to issue a Certificate of Compliance. Robert Cronin seconded the motion. VOTE: Unanimous.

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#### Discussion

Expedited Local Permitting Commissioners and Conservation Coordinator Jim Hankin discussed whether the Commission would have adequate time to review and act on filings under Ch. 43D, should the Town adopt this optional state legislation designed to expedite the permitting process for some commercial or industrial development proposals involving a building of 50,000 square feet or more. Mr. Hankin noted that development of this magnitude would be extremely unusual in Hamilton. Nancy Baker said that should the Commission judge that a 6-month wildlife evaluation was an appropriate element of the Commission's review of a particular proposal, the Commission would be unable to act within 180 days of a filing, especially given that wildlife evaluations must start in spring. She noted also that it is unclear what would happen if an applicant obtained permits from other Town boards, and then filed with the Commission just 10 days or so before the 180 day period would expire. Virginia Cookson pointed out that existing legal procedures require applicants to obtain Planning Board approval of a project prior to filing with the Commission, because changes at the Planning Board level could have an impact on a project's potential wetland impact. After extensive discussion, commissioners agreed to ask the Town Manager for information about how the conservation commissions in towns that have already adopted Ch. 43D are handling these issues. Mr. Hankin said he believes that most communities that have adopted Ch. 43D are urban communities. He said he would draft and circulate a summary of the Commission's concerns about the timing of the review and approval process within the 180 day window, and to express that the Commission would want a full 180 days to consider filings. The Commission placed this matter on the agenda of the April 13 meeting for further discussion.

Commission Fees Commissioners and Mr. Hankin discussed whether to raise some Commission fees, and/or institute some new ones, in response to the Town Manager's request that all boards and committees consider ways they might increase revenue. Mr. Hankin said fees that applicants pay pursuant to the Hamilton Conservation By Law currently bring in about \$4,000 over a full year in which the Commission receives a large volume of filings; if the Commission were to approve all the fee adjustments he suggested in a draft revised fee schedule, additional fee revenue might total \$1,500 a year. He said he does not think that residents would stand for a higher increase in fees than those he suggested in the draft fee schedule. The Commission agreed to discuss this further after Mr. Hankin updates the fee document per commissioners' comments at this meeting.

Criteria for Work in No Build and No Disturb Zones Mr. Hankin asked whether the Commission wishes to create a policy statement about the criteria applicable to decisions about work proposed in the No Build and No Disturbance Zones, or whether the Commission wants to amend regulations on these issues. Only the latter would require a public hearing. He said having criteria spelled out is helpful to applicants and the Commission in some specific situations. Nancy Baker said the Commission does not adequately distinguish between the two zones, and she suggested that the Commission should consciously consider the cumulative impact of multiple projects when reviewing each filing. She suggested the Commission specify what it considers reasonable

to waive, and what activities should be mitigated. Mr. Hankin said Commission regulations that state that waivers are "not preferred" are deliberately vague, but that the import is that the Commission wants projects to conform to regulations as closely as possible. Peter Dana suggested the Commission consider setting more specific rules about replication, and asking for more replication than has been its practice to date.

MACC Conference Ms. Baker reported that in a workshop at the recent conference of the Massachusetts Association of Conservation Commissions, she learned that some materials that state officials have been using material based on 1960 data to evaluate run-off rates when reviewing designs of proposed stormwater management systems. The workshop leader recommended municipal conservation officials instead use Cornell data, which is updated frequently. She also referred commissioners to new wildlife maps at <masscap.org>.

Commission Vacancy Commissioners asked George Tarr, who has expressed interested in joining the Commission, to step out of the room while they discussed the pending nomination of a candidate for an open seat. Commissioners decided to vote on this at the meeting of April 13. They also agreed that Mr. Hankin should speak in the interim with a commissioner who rarely attends meetings, to find out whether that commissioner wishes to continue to serve; if that commissioner decides to resign, commissioners would nominate two candidates for the Commission at the April 13 meeting. The Board of Selectmen must approve commission nominees.

Robert Cronin made a motion for the Commission to adjourn at 9:30 p.m. Virginia Cookson seconded the motion. VOTE: Unanimous.

Minutes submitted March 25, 2011 by Ann Sierks Smith