

**Stow Conservation Commission
Minutes
September 29, 2020**

A meeting of the Stow Conservation Commission was held on September 29, 2020 at 7:30 in the evening by remote Meeting VIA Zoom Videoconferencing in accordance with the Governors' Executive Order on Remote Meeting participation.

There were present: Jeff Saunders, Chair
Serena Furman, Vice-Chair
Andy Snow
Ingeborg Hegemann Clark
Matt Styckiewicz
Andy Bass
comprising a quorum of the Commission

Also present: Kathy Sferra, Conservation Coordinator
Tom Porcher, Associate Member

Minutes:

Matt Styckiewicz made a motion to approve the minutes of September 15, 2020 as drafted. Andy Bass seconded the motion and it passed 5-0 on a roll call vote: Matt Styckiewicz - aye, Andy Bass- aye, Serena Furman - aye, Ingeborg Hegemann Clark - aye, Jeff Saunders – aye.

Andy Snow arrived.

Stow Highway Department – Request for Emergency Permit – off Delaney Street Beaver Dams

Superintendent of Streets Steve Nadeau was present to request an Emergency Permit to install beaver flow control devices in two areas where beavers have been expanding dams behind the Delaney Street solar facility. Sferra displayed an air photo of the area. This is an area where there has been frequent beaver activity in the past and Highway has needed to breach and/or trap. Steve has been in touch with Mike Callahan of Beaver Solutions and is seeking emergency permits from Conservation and Board of Health to do this work next week. He wants to address this so that there aren't issues with losing the road at Delaney Street. After discussion, *Ingeborg Hegemann Clark made a motion to approve the Emergency Permit. Andy Snow seconded the motion and it was approved unanimously (6-0) on a roll call vote: Andy Snow – aye, Matt Styckiewicz - aye, Andy Bass- aye, Serena Furman - aye, Ingeborg Hegemann Clark - aye, Jeff Saunders – aye.*

Coordinator's Report:

- MACC Fall Conference is coming up. Sferra urged the Commission members to consider attending workshops of interest. She can take care of registration. Ingeborg and Kathy are teaching workshops.
- Eagle Scout – Eagle Candidate Drew Arbrutyn is interested in a community outreach project. Sferra indicated that she had mentioned ideas to him including helping with the Japanese Knotweed outreach effort or the Healthy Lake Boon initiative. Dan Barstow of the Lake Boon Commission said he would be interested in helping Arbrutyn identify a project associated with the Healthy Lake Boon Initiative. Sferra will follow up with Dan and Drew. Dan mentioned that Dave Gray would probably have ideas and might be able to be the project sponsor. Serena noted that

learning about beaver deceivers and doing some educational information for the paper might be a good idea. The Marble Hill deer enclosure was also mentioned. It was noted that the initial cataloging of plants still needs to be done. There was interest by Ingeborg and Matt. Kathy thought Bruce Trefry might be willing to help too. This might be an Eagle project too.

Continued Public Hearing - 66 Hiley Brook Road – Request for Determination of Applicability

Jeff opened the continued public hearing. Homeowner Casey Paoletti was present. She is in the process of trying to install a new well to replace a shallow point well that tested positive for PFAS. She also needs a new well pump. Nashoba Boards of Health helped her identify a location for the well as the options are limited. The proposed well is about 53-55' from Elizabeth Brook, a perennial stream. No work will be done in the 35' no disturb buffer. No trees will be removed and the area is previously disturbed. They will also be trenching from the well to the house. Matt did the site visit and showed photos of the site. It was suggested that straw wattle be installed for erosion control and also a "bird's nest" type basin be created to take the drill cuttings and debris and prevent runoff into the brook. There were no comments from the public. *Matt Styckiewicz moved to close the public hearing. Serena Furman seconded. The motion was approved unanimously on a roll call vote: Andy Snow – aye, Matt Styckiewicz - aye, Andy Bass- aye, Serena Furman - aye, Ingeborg Hegemann Clark - aye, Jeff Saunders – aye.*

The Commission discussed issuance of a Negative Determination of Applicability with conditions to include straw wattle and a birds nest. Kathy has a spec for this if the applicant needs one. *Andy Snow moved to issue a Negative 3 Determination with conditions as discussed. Matt Styckiewicz seconded and the motion was approved unanimously on a roll call vote. Andy Snow – aye, Matt Styckiewicz - aye, Andy Bass- aye, Serena Furman - aye, Ingeborg Hegemann Clark - aye, Jeff Saunders – aye.* Casey asked if she could tell Nashoba Board of Health that she now has a permit. The Commission said that she could and Sferra said she would verify if needed.

Coordinator's Report (Continued):

- Town Forest Beaver Exclusion Fence – Sferra noted it seemed to be working well so far. She thought it would be good time to meet on site and look at the headwall. She will follow up with Matt.
- Town Forest – Sferra noted that a Stow resident had recently vandalized the dog signs at Town Forest and been caught. Both the Police and Sferra talked with her and she was genuinely apologetic. Sferra met with her for about an hour and based on that meeting, Sferra recommended that no charges be filed. She is also talking with the Town Administrator about using Covid money to put up signs regarding physical distancing. She asked if Serena was interested in being involved in helping with messaging.
- Town Forest Visitation – Sferra noted that on a recent Friday more than 200 visitors came in the main entrance of Town Forest. There were approximately 59 dogs, of which about 85-90% were on leash, 13 bikes and one horse. There is about a week's worth of data from the trail cameras but it takes some time to go through. The Commission thought it was great to see how many people are using the property.

Public Hearing – Lake Boon Commission – Notice of Intent – Drawdown

Members of the Lake Boon Commission (LBC), Kris Krablin, Dan Barstow and Conray Wharff were present for the discussion as were Lake Boon Association representatives Dave Gray and Dave Siewierski.

Kathy Sferra read the hearing notice. She noted that all abutters to the lake had been notified. Dan Barstow of the LBC explained the history of permitting for the drawdown, the adjudication over the prior permit, and what has been done over the years. The purposes of the drawdown are both to control weeds around the periphery of the Lake and allow homeowners to work on structures without fear of ice damage. He noted that they are also before the Hudson Conservation Commission with a request to update their permits. Dan noted that the maximum drawdown is achieved by removing 2 boards for a total of 14" of drawdown. The level is brought back up again after ice out in the spring. Another benefit of drawdown is the turnover of water in the lake, as drawdown releases about 10%-15% of the volume of the Lake. Dan also mentioned the recently awarded Municipal Vulnerability Program grant which will allow a much more comprehensive study of water quality issues in the Lake.

Jeff noted that he and Kathy had taken the lead with reviewing the application and the proposed conditions. Kathy noted that she and Ingeborg had sat on the Commission when the previous application was heard and there had been concern about the deeper drawdown and the impact on private wells. She noted that many of the conditions that had been built in the permit were to address impacts to wells and wetlands from the drawdown. She thought that it made sense to look at the conditions with many years of drawdown experience and see if they are still necessary. Dan said that he had cross-referenced the Orders from Stow and Hudson in the hopes of coming up with one set of conditions that would be agreed upon. It was noted that the hearing can't be closed tonight because we don't have a DEP file number, and the additional time would also allow feedback from Hudson.

Jeff confirmed that there have been no drawdown-related issues with wells. He also confirmed that the ice doesn't have as great an impact on weeds as had been hoped originally. Dan asked Dave Gray to weigh in on this. Dave said that the initial feeling was that refilling while there was ice present would rip out the weeds, but it also had the potential to damage docks which was of concern to the residents. Dave added that freezing, dry weather has the greatest impact on weeds so that the frost will permeate the mud. Jeff confirmed that the turnover would have a positive impact on the nutrient load to the lake.

Kathy Sferra noted that during the last discussion there was a lot of attention to wells and the creation of an emergency plan with funding from LBA. She said that this hasn't been an issue in practice but she thought there should still be some provision for suspending drawdown if there is an extreme drought and a well goes dry. Jeff concurred and felt that should still be some flexibility for Board of Health or Highway to order a board be put back. He thought it was important to keep lines of communication open if action is needed. Sferra said that the Commission has always retained some measure of control over the timing of drawdown or refill if modifications are needed from what is laid out in the Order.

Dave Gray said that as Treasurer for the LBA, he has been writing the \$10,000 checks for the escrow. He noted that the funds are available in their account and didn't need to be put in escrow anymore.

Conray Wharff from the LBC commented that the drawdown has been going on for 10 years and there have been no real issues with wells. He thinks there is a good track record of wells not going dry with the 14" drawdown.

Theresa O'Riordan, a past member of the LBC, noted that there were a few wells that had issues in a previous drought and that those wells had had some maintenance issues. There were no problems once they were fixed. Sferra noted that the drawdown was also delayed in the drought year because there were concerns that the lake would not refill. O'Riordan added that the drawdown also progressed more slowly that year.

Ingeborg Hegeman Clark said that she is in general agreement with the proposed conditions. She noted that much of the reporting was removed from the draft conditions which is ok, but she thinks that provision needs to be made for an unforeseen condition that might require that drawdown be halted. She noted that the MVP Grant is also a great opportunity to understand the hydrology of the Lake. Conray Wharff noted that the Wildlife Woods hydrology study provided good data on this.

The Commission turned to a discussion of proposals by the LBC to modify the wording of the conditions.

There was discussion about a provision to sample water in the deepest part of the Lake rather than at the outlet to the Lake. The original decision seemed to be focused on understanding what nutrients and sediment were going over the dam into the Assabet River. There was a desire to continue maintaining that dataset. After discussion it was agreed to retain the wording to sample at the outlet, although Dave Gray from the Lake Boon Association said that they would probably sample in both locations. The MVP grant will want sampling in the deeper areas. The two locations provide somewhat different information.

The Commission discussed the possibility of issuing a 5 year permit rather than a three year permit. The desirability of having identical dates in Hudson and Stow was noted. Members seemed agreeable to either approach. The applicants will ask Hudson if they have a preference.

There was general agreement from members of the Commission that, although no wells had ever been demonstrated to go dry as a result of drawdown, that there be some provision for putting a board in and increasing the water level or suspending the drawdown if there is an issue with the drawdown and private wells in the future. It was suggested that the two of the conditions that are similar be combined into one condition addressing this issue and giving the Board of Health a formal role. Dan noted that the data set on past drawdown is good and has been retained by the LBA. Sferra asked if data on the date of removal and replacement of boards is being captured. Dan said that it is generally available. He thought that they could update this information and post it on the LBA website.

Jeff asked about the reporting and suggested that if there are significant comments from lake residents about drawdown they somehow be incorporated into the reporting so that the Commission can be aware of public feedback. Dan said that this could be done. He noted that the biggest issue is when to start the drawdown – there is tension between leaving the lake high for boating and dropping the level so that permitted work can be done on walls and shorelines.

There was a question about the provision in Item 11. Sferra suggested that the wording be revised to reflect the possibility that ice out may not always happen by April 1st.

It was noted that in several locations the references to the dimensions of the boards have been removed. It was agreed to change the condition #8 to reference that the drawdown would happen gradually by removal of at least two boards, rather than referring to 3" or 6" boards. Dan said that he will add that.

The Commission questioned whether the repairs to the dam would change any of this. The consensus was that there is no change planned to the base level of the cement at the weir. It was noted that a Notice of Intent will be required for the dam work so this issue could be revisited if needed. Conray Wharff noted that there are two sets of boards at the dam. The boards are stacked.

There was a question about the provision to allow the LBC to order removal of a Board in the event of a major storm with heavy rainfall. The consensus was that this should be part of the emergency plan for the dam rather than in this permit. LBC can't discuss this without having a meeting. Conray said that one member of the LBC has authorized this in the past. Kathy will follow up with the Superintendent of Streets to find out what the O&M and emergency plans are for the dam and how that decision-making occurs. It was agreed that this should be taken out.

There was no additional public comment. It was noted that there is no file number from DEP so the Commission cannot issue the permit tonight. This will provide an opportunity to discuss these issues with Hudson.

Ingeborg Hegeman Clark made a motion to continue the hearing to October 6, 2020 at or after 7:30 pm. Andy Snow seconded and the motion was approved unanimously: *Andy Snow – aye, Matt Styckiewicz - aye, Andy Bass- aye, Serena Furman - aye, Ingeborg Hegemann Clark - aye, Jeff Saunders – aye.*

Conservation Land Update – White Pond Road Wetland and Conservation Land Violation - Sferra noted that Rick Marshall has removed the culverts and fill in the river and installed rocks blocking the access point. She went out and did a site visit. The water in the river is very low. The Commission had viewed photos of the site and thought that Rick had done a good job with the work. Sferra will follow up with Marshall and will also call the Highway Department and ask them to remove the boards.

Conservation Land Update - Hallock Point - Sferra updated the Commission on the effort to exercise the Town's right of refusal on Hallock Point. She noted that the CPC approved moving forward with the project to Town Meeting, with a request for \$400K. It is looking like Town Meeting will be in January at the earliest and could be postponed until May. She displayed the land use plan and discussed the vision for the property. The Commission was in agreement that a new parking lot could be challenging at the end of the Point from a management standpoint. Concern was expressed about swimming there and potential liability. Sferra noted that the vegetation comes right down to the shoreline. Sferra said that she has a concern about creating another dog beach and the situation will need to be monitored. Jeff noted that there are a lot of trees down in the water. The next focus will be fundraising and finding prospective buyers for the two lots.

Coordinator's Report (Continued)

- New Projects – Andy S. agreed to take a new project at 68 Hudson
- Chapter 91 – Sferra noted that she attended a webinar offered by DEP Wetlands and Waterways on the Chapter 91 program and the need to have both Orders of Conditions and Chapter 91 Licenses for all docks and shoreline retaining walls including on “donut” ponds like Lake Boon, where the water level has been raised by dams. It is also DEP's position that floating “patios” are not water dependent and should not be permitted under Chapter 91. Sferra also noted that DEP is taking an expansive view of navigable rivers. She noted that in many towns like Stow this would result in an overwhelming number of enforcement cases, should illegal docks and walls be pursued, as well as a huge amount of permitting. Members of the Commission were skeptical about DEP's Chapter 91 jurisdiction and wanted to see the statutory language. Sferra noted that a lot of docks were put in prior to the Wetlands Protection Act. The Commission agreed that this is a huge potential issue. She will get the workshop materials and distribute them to the Commission for a future discussion. Hegemann Clark wanted to know where it says in the law that there are public trust rights in the “donut” and noted how expensive the permit process is. Sferra also noted

that there is a process for the Town to take on permitting of docks but only one town (Southwick) has done this so far. Towns need to be certified by DEP to issue their own permits. This might be something to explore.

Public Comment

Resident Dorothy Granat of White Pond Road was present and asked about the Delaney Street beaver dam work and what the Commission had decided. Sferra explained what the Commission had decided. She also asked about a recent campfire and Town Forest and wanted to know how fires on town land were permitted. Sferra explained that the Commission issues a camping permit and they have to go to the Fire Department for a fire permit. Sferra noted that the Commission had required the Scouts to comply with Covid guidelines. Granat also raised a concern about invasive “snake” or Amyntas worms that are now present in Stow not far from Town Forest that arrived in compost that she purchased. Others may have them as well. She wants to raise awareness about the damage that these invasive worms can do to soil and vegetation in forests and help people recognize them. Ingeborg Hegemann Clark thanked her and suggested that she consider writing an article for the paper with links to where people can find more information and noted that there are some good resources on the internet on this.

Adjournment – *Ingeborg Hegemann Clark made a motion to adjourn the meeting at 9:36 PM. Matt Styckiewicz seconded the motion and it passed 6-0 on a roll call vote: Andy Snow – aye, Andy Bass – aye, Matt Styckiewicz – aye, Ingeborg Hegemann Clark – aye, Serena Furman – aye, Jeff Saunders – aye.*

Respectfully submitted,

Kathy Sferra
Conservation Coordinator

Materials Used during the September 29, 2020 Conservation Commission Meeting:

Application, Photographs, and Supporting Materials for 66 Hiley Brook
Application and Supporting Materials for Lake Boon Drawdown
Map of Streams off Delaney Street behind Solar Project
Vision Plan for Hallock Point