

Worthington Conservation Commission  
Minutes of Meeting  
May 19, 2016

## **1 Call to Order**

The meeting was called to order at 05/19/2016 07:05:24 PM

## **2 Attendance**

### **2.1 Commission**

Andrew Madden, Peggy O'Neal, Mary Gerken, Ed Lewis, Virginia Sowers, Jim Molyneux

### **2.2 Guests**

Please see attached sign-up sheet.<sup>1</sup>

## **3 Public Hearing - Sam Hill Bridge**

A public hearing on a notice of intent relative to the proposed replacement of a bridge that crosses over Watts Stream on Sam Hill Road Bridge opened at 07:05:51 PM.

Secretary's note: The commission had a site visit for the work at 6:00 PM immediately preceding this public hearing.

Marc LeVasseur of Foresight Land Services, Inc. an engineering consultant to the Board of Selectmen presented the bridge replacement plan.

The work consists of removing the existing bridge components, expanding the waterway under the bridge and installing pre-cast concrete bridge components. The components consist of a 3-sided box with the top of the box carrying the roadway and the sides forming the abutments.

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<sup>1</sup>Some, but not all commission members signed the sheet. A list of members that attended is listed in Section 2.1 above.

The planned work involves the partial replacement of the existing abutments that form a part of the west and east sides of the bridge.

Mr. Madden: expressed a concern about the portions of the existing abutment remaining at and below water level. While the bridge span is scheduled to be 28 feet (east to west), the stream bed will still be constricted to 13 feet (east to west) (same as existing conditions). The existing abutments should be lowered to the lowest possible level.

The height of the abutments was the subject of considerable discussion relative to the Massachusetts Wetlands Protection and the Federal Clean Water Act (CWA) which is administered in part by the US Army Corps of Engineers (ACOE).

Several members raised the question: to what extent can the existing stream abutments be removed. The proposal calls for leaving approximately 3.8 vertical feet of the existing structures in place. Can this level be lowered to zero? Can the existing abutments be lowered to 1.0 feet?

Mr. LeVasseur explained that lowering from the proposed 3 feet to 1 foot above the existing stream bed is possible. Mr. LeVasseur explained the importance of not physically working in the water of Watt's Stream in order to avoid relatively complex ACOE permitting.

Mr. Madden expressed an opinion that short term temporary disturbance of the stream is a fair trade-off for long term habitat improvement.

It was generally recognized that working in the water would require ACOE permitting and a Clean Water Act 401 Water Quality Certification by the DEP. Even a temporary disturbance is subject to these regulatory provisions.

Mr. Stinson raised the question: How low does the stream go? Does it ever dry up? Abutting neighbour, RJ Beaudry stated that the stream always contains water and never dries up in her experience.

Mr. Madden stated that one can expect low flows to be between 25% and 50% of the flows observed at the May 19 site visit.

Mr. Stinson raised the question: How does it [the project] become subject to CWA Section 401 if you take it [the existing bridge] all out?

It was generally recognized that that the proposed stream bed under the bridge not fully complying with the ACOE stream crossing standard would require a pre-construction notification (PCN) with the ACOE. PCN is the first step in a potentially lengthy permitting process.

Mr. Lewis explained the roles and inter-relationships between the conservation commission, the Massachusetts Department of Environmental Protection (DEP) and the ACOE as well as the regulatory reach of the Massachusetts Wetlands Protection Act and the Federal Clean Water Act.

Mr. LeVasseur explained that portions of the existing abutment have been retained in the design

to facilitate construction.

Mr. Stinson explained that if the crossing does not fully comply with the stream crossing standards then the project is subject to review and approval through the ACOE.

Mrs. LeVasseur and Stinson explained that if work is completed in July and August during low flow periods, then the work could be completed under the self-verification (SV) provisions of ACOE General Permit No. 10 for work in waterways. It was also noted that the ACOE jurisdiction is for work *under water*. If all work can be completed without entering the water at all then the work can proceed without ACOE involvement.

Mr. Stinson outlined two options: if there is time to get time to get the ACOE approvals, then all of the existing abutments can be removed. Otherwise, removing as much of the abutment as *practicable* during construction is acceptable.

Mr. Madden questioned whether or not there were contingency plans for construction should July and August be particularly wet. Mr. LeVasseur explained that 'they' have a control of water specification for work in wet weather conditions.<sup>2</sup>

Citizen Ron Major who lives on Cudworth Road explained that there are plans to rework Cudworth Road. He is concerned about a culvert there.

Mr. Lewis explained that tonight's public hearing is focused on the Sam Hill Road Bridge and nothing else. The highway department submitted and then withdrew a notice of intent for work on Cudworth Road, Buffington Hill Road and other roads in town. While a public hearing on that work was originally scheduled for tonight, the highway department withdrew their notice. Any discussion relative to any road or scheduled work other than the Sam Hill Road Bridge is irrelevant and cannot be considered.

Citizen Sheila Schick raised a question relative to abutter notification procedures. Mr. Stinson and others explained that the notification essentially tells the public, 'check with the conservation commission' for details on plans, specifications and schedules of hearings. A notice of intent for work outside the Sam Hill Road bridge area has been withdrawn and will be the subject of a hearing to be scheduled in the future.

Citizen David Morrison expressed a concern that the scope of work is being scheduled with reliance on the weather with is unpredictable.

Mr. Stinson explained that any work can proceed involving removing the existing bridge and related site preparation without outside intervention (ACOE) as long as no work occurs within the flowing water.

Mr. Lewis expressed a general philosophy with environmental regulation. Relatively small projects involve little compliance effort, more extensive projects involve a greater compliance effort. Per-

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<sup>2</sup>It is unclear if Foresight has this specification or if the State of Massachusetts Department of Transportation has the specification.

mitting itself is an incentive to limit the environmental disturbance relative to work. The ACOE permitting scheme is an example. Work during low flow conditions in July and August allows for simple permitting through the ACOE. Working during other times drives considerably more extensive and complex compliance needs. Thus, there is a strong incentive to schedule work for low flow periods in July and August and to stay out of the water if possible.

Mr. Morrison expressed a concern as to where construction vehicles are to be parked. Vehicles can cause oil and other contamination. [Additional comments are stricken as they are not germane to the Sam Hill Road bridge.]

Ms. Beaudry expressed a concern that her well is fed by an underground stream in immediate proximity to the proposed work.

Mr. Lewis offered a motion that Ms. Gerken seconded to extend the hearing to Wednesday June 1 at 7:00 at Town Hall where Foresight Land Services is asked to return with a modified design and construction plan relative to the bridge abutments. The commission approved the motion unanimously.

The hearing session ended at 05/19/2016 07:45:05 PM

## **4 Old Business**

### **4.1 Minutes**

Mr. Madden offered a motion that Mr. Molyneux seconded that the draft minutes of the April 21 meeting be accepted as presented. The commission approved the motion unanimously.

### **4.2 Wolf**

There has been no change on the Wolf enforcement order.

## **5 New Business**

### **5.1 Forest Cutting Plans**

#### **5.1.1 Patterson Road and West Street**

The commission is in receipt of a cutting plan relative to land owned by Paul Stassberg. Kenneth ('Kip') Porter plans the cutting work. The plan has not been signed by the State of Massachusetts Department of Conservation and Recreation (DCR) service forester.

This plan submission is for the renewal of old plan that expired. The work is mostly for improvement of a maple sugar plantation ('sugarbush'). Mr. Porter plans to use draft horses instead of mechanized tractors to assist the logging effort.

#### **5.1.2 Huntington Road**

The commission is in receipt of a cutting plan relative to land owned by Kevin Ames. Mr. Ames expects to complete the logging work. The plan has not been signed by the DCR service forester.

#### **5.1.3 East Windsor Road**

The commission is in receipt of a cutting plan relative to land owned by James and Judith Clarke. The plan has been signed by the DCR service forester with the logger 'to be determined'. The work evidently has been completed.

### **5.2 Western Mass Forest Legacy Partnership**

A public and private group with environmental-related interests, has asked that the commission sign a template letter advocating the formation of a 'Forest Legacy Area' in our region. A copy of their cover letter is attached.

Mr. Madden expressed the need to have issue of a letter be the subject of a motion at a publicly posted meeting. The item needs to be on the agenda under the state Open Meeting Law.

### **5.3 Membership**

Mr. Madden's term expires in August 2016. He does not plan to renew membership on the commission. It was agreed to ask Ms. O'Neal to place an advertisement in *The Country Journal* advertising the availability of the position.

Ms. Sowers is aware of some folks in town that may be interested. It was agreed that she should go ahead and ask them to submit a letter of interest to the Selectmen.

## **6 Adjourn**

Mr. Molyneux offered a motion that Mr. Madden seconded that the meeting adjourn. The commission approved the motion unanimously.

The meeting adjourned at 05/19/2016 08:02:03 PM

5/19/16

# Conservation Commission Attendance List

Name (Print)	Address
Andrew Madden	Concom
Mark Stinson	Massey EP
David Morrison	375 del Post Rd
SHEILA SCHICK	94 Buffington Hill Rd
Brian Schick	94 Buffington Hill
CLIFFORD SMART	50 BUFFINGTON HILL
LEONARD BEAUDRY	20 SAM HILL RD
RONNI-JO (RJ) BEAUDRY	208 AM. HILL RD.
Julia Sharrow	32 Buffington Hill Rd.
Ronald J. Moyer	58 DOWORTH RD.
James R. Molyneux	58 Patterson
Peg Neal	180 Prentice Rd

## WESTERN MASS FOREST LEGACY PARTNERSHIP

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March 7, 2016

Dear Municipal Officials:



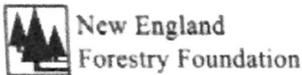
We are writing to inform you of a partnership forming to help access funds that are available to protect working and wild forests in western Massachusetts through a new Forest Legacy designation, and to ask your support for this effort. Your community received notice of this initiative from the Pioneer Valley Planning Commission in October.



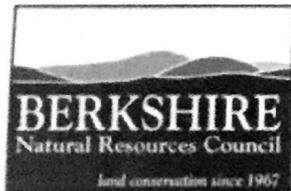
The Forest Legacy Program (FLP) was established in 1990 as a federal-state partnership to promote the long-term integrity and protection of privately-owned forest lands. Since its inception, the program has dispersed millions of dollars each year to fund land conservation projects that support traditional forest uses, including economic development through forest wood products and forestry jobs, maintenance of public water supplies, recreational opportunities, and critical wildlife habitat.



Massachusetts formally joined the program in 1993, and was one of the first states to do so. While the Commonwealth now has eight Forest Legacy Areas which are able to access the program's funding, the majority of western Massachusetts—a region with one of the largest intact forest blocks remaining in New England and where forest resources are critical for the economic well-being and quality of life in many communities—is not currently designated. In 2003, an effort was undertaken to designate a Berkshire Plateau Forest Legacy Area that your town supported (see attached letter of support from 2003). Due to various circumstances, the designation was never finalized which has led to the renewed effort we bring before you today.



A newly proposed Forest Legacy area would close this gap and cover many towns in western Massachusetts stretching from the Connecticut River to the New York border, with the exception of the twenty-one towns in Franklin and Berkshire Counties currently considering another program with the USFS. However, the final boundaries of the proposed FLA are still in discussion. Again, a new Forest Legacy Area would only serve to access another funding source for potential forest conservation projects that involve willing, private landowners. There is no regulatory structure imposed on the area, and no landowner is obligated to participate.



This effort to designate a Forest Legacy Area in Western Massachusetts is being led by a coalition of public and non-profit organizations including Kestrel Land Trust, the New England Forestry Foundation, Pioneer Valley Planning Commission, Hilltown Land Trust, The Nature Conservancy, Berkshire Natural Resources Council and the Massachusetts Department of Conservation and Recreation (DCR), among many other partners.

