

Montague Conservation Commission

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MEETING MINUTES

Thursday, November 4, 2010

Commissioners Present: Mark Fairbrother - Chair, Donna Petersen, Deb Picking, Donna Francis, Addie Holland, Sean Werle.
Walter Ramsey -Agent.

Approval of Minutes: October 14, 2010

Minutes from October 14 were approved with extensive corrections. A motion to approve by Deb was seconded by Donna. All present voted in favor.

Mark F motioned to table RDA# 2010-04 for later discussion during the meeting, seconded by Sean. All present voted in favor.

Notice of Intent #2010-02, Richardson Road Beaver Pond (Map 53, lot 44).

Matt Varell of Vanesse-Hangen, Brustlin, Inc., Adam St. Martin of Western Mass Electric Company, Luke Callahan and Donna LaFontaine of Integrated Wildlife Control, Sam Calagione and Steven Ward, property owners.

WMECO has filed a notice of intent proposing to breach an inactive dam within the Richardson Road beaver impoundment. The work may also include, if necessitated by beaver activity, the installation of pond levelers in the dam. WMECO was previously permitted installation of pond leveling devices within two downstream active beaver dams located in the town of Leverett. This work will occur in areas regulated under the Massachusetts Wetlands Protection Act. The land is located east of Richardson Road, Montague.

Matt Varell introduced himself. He is a senior environmental scientist with Vanesse Hangen Brustlin, Inc. He was accompanied by Adam St. Martin from Western Mass Electric Company. He reminded everyone of the recent public meetings held to discuss WMECO's concerns about maintaining safe and adequate power through the right of way as well as listening to the neighbor's concerns about how best to deal with the beaver impoundment. WMECO will be coming back in the next few months with additional permit applications, but for tonight, they are here to discuss dealing with controlling the water in the pond. They have met with the Leverett Conservation Commission about a month ago with a notice of intent to install some pond levelers. There are two dams at the southern end. The Leverett Conservation Commission approved installation of these levelers. Those have been installed and the water level has actually dropped since this application was submitted to the Montague Conservation Commission. Varell introduced Luke Callahan and Don LaFontaine of Integrated Wildlife Control as authorities on the local beaver habitat.

A prolonged discussion took place regarding the status of the dam, existing equipment, pond levelers, water levels, as well as beaver activity at the site. Property owners Calagione and Ward weighed in as interested parties. Ward questioned if a Wildlife Habitat Assessment had taken place, citing regulations from the DEP and the Wetland Protection Act. Varell replied that they had met with the DEP today in regards to the overall project and part of their recommendation was to conduct an assessment as soon as possible prior to construction activities. Concern was raised that the habitat had already been altered. Varell stated that they did not exceed any threshold that mandates wildlife habitat evaluations.

Additional discussion took place regarding the need for a NOI. The notice of intent was originally submitted with the objective of breaching the dam, however what WMECO is really looking for is approval to basically reactivate the pond levelers, which qualifies as maintenance the existing structure. If there is no NOI, the commission loses the right to impart any special conditions on the project. A possible solution is an Order of Conditions, which could have a special condition that says, "Dam breaching is not allowed under this Order of Conditions, only the operation and maintenance of the pond levelers." Walter recommended that the Commission add special conditions based on what the Leverett Conservation Commission did. He presented the conditions. The first one was to have progress reports provided to the Conservation Commission on a biennial basis. Either VHB or WMECO would appear before the Conservation Commission once per year. The second one requires WMECO to provide a Notice of Intent to the property owners and abutters within 100 feet of the subject property, via electronic or paper mailing, prior to the start of all phases of work. Both of these can be included in the notice of intent for next year.

The commission discussed the fact that the scope of the project has been significantly minimized to the point that a NOI is not required since no breaching is proposed based on lowering of pond level per DEP file# 200-0167 (Leverett filing). Assuming the current pond leveler was installed in accordance with the Wetlands Protection Act (estimated 2000), the current scope proves exempt. Mark F asked the applicant's representatives if they would like to discuss the how to proceed in private. Following a 3 minute hiatus, the applicants decided to proceed with the Notice of Intent application, but requested for a hearing continuation so that they may reexamine the NOI application.

Motion to continue public hearing for NOI #2010-02 WMECO to next scheduled meeting date by Deb second by Addie. All present voted in favor.

Update: On November 8, VHB submitted a letter to withdraw the NOI- (attached to minutes in file)

RDA #2010-04 Voiland, Ryan of Red Fire Farm - 184 Meadow Road: Request for Determination of Applicability; project involves reestablishing a private access road for agricultural purposes that potentially involves a stream crossing. The property is located at 184 Meadow Road, Montague, MA and is identified as Assessors Map 17 Lot 16.

Applicant Ryan Voiland was not present at this point in the meeting and there was no public present to comment. Walter introduced the project to the Commission. Red Fire Farm intends to use this existing way to access the rear of the parcel. They intend to first log the property, then transfer a portion into agricultural use. This land was used for agricultural purposes in the distant past (not in previous 15 years). Land is in APR. Walter visited the site the week before. The stream appeared to be intermittent, but there was question as to if there are wetlands upstream. "It appears as if there are, but they are not mapped on the DEP GIS layer". The stream however is on the DEP GIS layer.

Deb P. noted that the applicant filled out the wrong box on the RDA form. Walter R noted that the applicant intended "to determine whether the area depicted on the plan is an area subject to jurisdiction of the Wetlands Protection Act" NOT "whether the area depicted in the plans is subject to the jurisdiction of any municipal wetlands bylaw".

The applicant has filed a cutting plan, but this may be within the Commission purview because the application discusses a *permanent* stream crossing which would include a culvert. The work is most likely categorized as a "new agriculture project", which not necessarily exempt. The question is to whether there are upstream wetlands or not. If there are not, the intermittent stream is not subject to Wetlands Act.

If an upstream wetlands resource area is identified by the commission, a positive determination would be issued and a Notice of Intent would typically be required. If a Notice of Intent is submitted the project must be developed to stream crossing standards.

Ryan Voiland of Red Fire Farm was not at the meeting in person, was called and put on speakerphone with the commission. The commission recapped. At this point the commission does not have enough information issue a determination. The commission would like to get a second opinion about the presence of wetlands resource area upstream. The applicant, Mr. Voiland requested that the commission continue the hearing so that proper decision is made. He expressed concern about proceeding with the temporary logging plan, as approved by DCR Service Forester. The Commission does not object to the temporary crossing of the stream for logging purposes, so long that a forest cutting plan is approved.

Deb P volunteered to evaluate the site for wetlands upstream from the proposed stream crossing.

Motion to continue public meeting for RDA #2010-04 184 Meadow Road to next scheduled meeting date, pre request of applicant by Deb. Second by Sean. All present voted in favor.

Announcement: Walter announced a Public Notice comment period for file # NAE-2010-0264. It is an Army Corps permit to retain and maintain existing seasonally installed bottom anchored floating docks and ramps leading to the Connecticut River at the Turners Falls Rod and Gun Club. No action is required from the Conservation Commission. Mark commented that they appear to only be extending the dock and not altering the riverfront area

Adjournment

Motion to adjourn at 8:05 PM by Addie H, seconded by Sean W , all present voted in favor.

Next scheduled meeting: December 9 , 2010 at 6:30 PM

Approved by: _____ Date: _____