

# Montague Conservation Commission

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## MEETING MINUTES

**Thursday May 13, 2021- 6:30pm**

Meeting held remotely via ZOOM due to COVID-19

**Commissioners Present:** J. Fermann, Anthony Reiber, Mark Fairbrother, Sean Werle, Laurie Reid, Toby Carter (associate)

**Commissioners absent:** Deb Hensen, Donna Francis

**Staff:** Walter Ramsey, Agent

6:41pm Meeting opened

**6:43pm MOTION** by S. Werle to Approval of minutes of April 8, 2021 with typo edits. Seconded by J. Fermann. VOTE: J. Fermann (AYE), A. Reiber (AYE), L. Reid (Abstain), Mark Fairbrother (AYE), Sean Werle (AYE). MOTION PASSES.

**6:44pm** Request to correct Order of Conditions for NOI 2020-02 Montague-Fairmont Rebuild Project, DEP File 229-0259. No changes to the permitted work are proposed.

Present: Steven Lecco (Eversource)

Since the Order of Condition was issued in October 2020, numbers on the WPA Form 5 regarding resource area impacts were noted by the DEP as incorrect and/or missing. Additionally, some of the numbers have been reduced since work has started. GZA is requesting a corrected WPA Form 5/ Table 2, a copy of which is in the file.

Agent reports that this is administrative in nature with no change to what has been approved. Agent recommends a motion to issue the administrative correction as presented in the GZA April 30, 2021 memo.

*MOTION* by J. Fermann to amended the Order of Conditions for NOI 2020-02, as presented. Seconded by S. Werle. VOTE J. Fermann (AYE), S. Werle (AYE), A. Reiber (AYE), T. Carter (AYE), L. Reid (Abstain) M. Fairbrother (AYE). MOTION PASSES 6:50pm

**6:50pm Railroad RDA #2021-05 filed by New England Central Railroad** for verification of sensitive areas along railroad rights of way as per Mass Department of Agricultural Resources Pesticide Board Regulations 33 CMR 11.00 for the use of herbicides for maintenance of the right of way. The properties covered include all railroad rights-of way owned by these companies in the Town of Montague.

The Conservation Agent presents two concurrent/ identical RDAs. Vegetation management is done by a single company that contracts to two companies in Montague. In some cases the work is next to each other.

The application of herbicides is regulated outside of the Wetlands Protection Act, with permission from Mass Department of Agriculture. The Commission is being asked to confirm the boundaries on the plan. They cannot spray wetlands within 10 feet of the railroad.

New England Central Railroad runs north/south, through Leverett, parallel to 63 and into Millers Falls.

The Conservation Agent reviews that map, which includes yellow zones (no spray), blue zones (limited spray)

and red zones (water supply protected: sprayed once every 24 months). This determination will be good for 5 years.

The Conservation Agent did an extensive walk of the areas with Keith Morris five years ago. Agent reports that the maps presented are accurate and identical to the boundaries approved 5 years ago. Nothing has changed in the proposed spray areas.

Pan Am Railroad starts from the Deerfield and runs through Montague Center to Lake Pleasant. Conservation Agent points out several stream crossings but reports they are greater than 10 feet from the railroad. Spray will not get into these streams.

New England Central Railroad is looking for a box 2A Positive Determination to confirm the boundary of the spray area.

L. Reid asks if there is a height of the limitation to spraying.

Agent isn't aware of a height restrictions. They will spray within 10 feet of the tracks which is typically trap rock.

A. Reiber asks what herbicides will be used and if they are residual herbicides.

Agent responds that at this point of the process the Commission is only being asked to confirm the boundaries of the resource area. A vegetation management plan will be submitted to the State at a later date. The Commission will be cc'd on that approval. We do not have the authority to specify herbicides.

S. Werle asks if the Agent can confirm that these boundaries are accurate and identical to 5 years ago.

The Conservation Agent confirms that he walked both sides of the tracks with Keith Morris one full day 5 years ago Areas included Dry Hill Road, N. Leverett Road and Greenfield Road. Deb Henson was also present for some of the inspection. Agent confirms that the current proposal is identical to the one approved 5 years ago

T. Carter comments that there was mention of the herbicides being used in correspondence with the railroad which were included in the meeting materials.

*MOTION by S. Werle to issue a Positive Box 2A determination for RDA #2021-06 filed by New England Railways. Seconded by J. Fermann. VOTE: J. Fermann (AYE), S. Werle (AYE), A. Reiber (AYE), T. Carter (AYE), L. Reid (AYE) M. Fairbrother (AYE). MOTION PASSES 7:05 pm*

**7:06 pm Railroad RDA #2021-06 filed by the PanAm Railways** for verification of sensitive areas along railroad rights of way as per Mass Department of Agricultural Resources Pesticide Board Regulations 33 CMR 11.00 for the use of herbicides for maintenance of the right of way. The properties covered include all railroad rights-of way owned by these companies in the Town of Montague.

Conservation reports the conditions around Old Greenfield Road and the stream crossings. Agent confirms they are further than 10 feet and all other conditions identical to 5 years ago.

*MOTION by S. Werle to issue a Positive Box 2A determination for RDA #2021-06 filed by Pan Am Railways. Seconded by A. Reiber. VOTE: J. Fermann (AYE), S. Werle (AYE), A. Reiber (AYE), T. Carter (AYE), L. Reid (AYE) M. Fairbrother (AYE). MOTION PASSES 7:08 pm*

**7:08 pm Newton Street RDA #2021-07 filed by the Town of Montague** to determine whether a proposed a 100 foot long, 6 foot wide hardened walking path extension is subject to the Wetlands or Riverfront Protection Acts. The property is located off Newton Street in Millers Falls and is identified as Assessor's Map 31 Lot 03. Present: D. Brule, Nancy Crowell, Bob Hatch- Millers Falls Village Improvement Association

Conservation Agent introduces the project, which is a 200 foot extension of a path approved by the Commission through NOI in 2019. (shows the map of the parcel) The new trail be 6 feet wide and handicap accessible. A small portion of the proposed trail is within 200 feet of the riverfront. (Under 200 sq. ft.) No large trees will be removed. The area is very soggy. Instead of being paved, the new trail would be constructed out of a geo-tech fabric with a stone which allows for drainage.

J. Fermann asks why we can't use the same NOI as the original trail.

Agent responds that he submitted this project as an RDA because the impacts are so minor, similar to the sidewalk extension on First Street.

A.Reiber asks about excavation, which is clarified by the Agent as excavation using hand tools rather than heavy machinery.

David Brule of the Miller Falls Community Improvement Association supports the project which makes the walk more interesting and varied in vegetation including native species of plants.

Ariel Elan (resident) shows support of the project.

Nancy Crowell (MFCIA) shows support because it is low impact, ADA compliant and has educational possibilities.

Bob Hatch discusses the materials that will be used, including the stones.

*MOTION by S. Werle to issue a Negative 2 Determination for Newton Street RDA #2021-07 filed by the Town of Montague. Seconded by J. Fermann (AYE), M. Fairbrother (AYE), S. Werle (AYE), A. Reiber (AYE), T. Carter (AYE), L. Reid (AYE). MOTION PASSES 7:31pm*

#### **Agent Report:**

*Correspondence: Receipt of forest cutting plans, notice of vegetation maintenance on Railroad Property, notice of draft Priority Habitat Maps*

Conservation Agent talks about several proposed plans including the Fish and Wildlife habitat maps which extends North of the Montague Plains to the Connecticut and Millers Rivers and on either side of the Sawmill River.

The Turners Falls Water Department is cutting trees on Watershed Road off route 63. A permit was received from the State. T. Carter reviewed the plan which seems fine.

A forest cutting plan was filed for a 50 acre lot at 94 Federal Street. No stream crossings.

A forest cutting plan was filed for the land off Randall Road surrounding the Millers Falls Road and Gun Club. There are 3 some crossings. The Rod and Club is also removing trees on their 10 acres using the same harvester.

J. Fermann asks about the forest cutting plan from submitted by Andrew Rewa, which was determined by Natural Heritage to be priority habitat. Two provisions were issued to protect the box turtle, including no motorized vehicles during the breeding cycle and no scarification from motorized vehicles.

Ariel asks if there is a public group who can weigh-in on tree removal on private property.

Agent responds the State reviews forest cutting plans, which are often in wetlands areas. The Commission is consulted and can review/comment but they have no authority over tree removal. However some town do have bylaws to regulate the cutting of trees. In Montague many permits that come to the Commission also go through Natural Heritage because there is so much priority habitat in Montague.

*Updates on Mosquito Control Opt-out*

The Select Board and Board of Health voted to opt-out, along with as many surrounding towns. Montague is developing an alternate plan and there is mention of the Commission working with the DPW on ditches and drainage issues.

Ariel adds that the opt-out petition was filed with the State by Daniel Wasiuk, Montague Board of Health. She is attempting to understand the complexities of State and local agencies, their contracts, and procedures.

*MOTION by J. Fermann to ADJURN the meeting. Seconded by A. Reiber. VOTE: J. Fermann (AYE), S. Werle (AYE), A. Reiber (AYE), T. Carter (AYE), L. Reid (AYE) M. Fairbrother (AYE).*

*MOTION PASSES 8:40pm*