



**TOWN OF
MONTAGUE
MASSACHUSETTS**

TOWN HALL
One Avenue A
Turners Falls, MA 01376

CONSERVATION COMMISSION
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**CONSERVATION COMMISSION
APPROVED MEETING MINUTES**

Thursday, May 9, 2024 6:30 PM

Second Floor Meeting Room, Town Hall, 1 Avenue A, Turners Falls and via Zoom

PRESENT: Mark Fairbrother (Chair), Toby Carter, Anthony Reiber, Margaux Reckard, Sean Werle, and Donna Francis

ABSENT: Justin Fermann, Al Averill

ALSO PRESENT: Maureen Pollock (Staff Liaison, Planner/Conservation Agent), Tamsin Flanders (FRCOG), Nell Wright, Liam Cregen (Franklin Land Trust), Mark Stinson (MassDEP) Evelyn Walsh and Paul Porter (representatives of Springdale Cemetery), and members of the public

MOTION by S. Werle to accept the minutes from April 11, 2024 with spelling corrections/ and edit. Second by M. Reckard. VOTE: Fairbrother (AYE), Carter (AYE), Reiber (AYE), Reckard (AYE), Werle (AYE) MOTION PASSES (5-0) 6:33PM.

For review and comment of the draft “Land Use, Zoning, and Open Space” Chapter to the Comprehensive Plan. See link to access draft chapters: <https://montagueplans.org/review-comment/>

FRCOG has been providing the Town of Montague technical assistance for the Comprehensive Plan update. Tamsin Flanders from FRCOG presents the “roadmap” for land use, zoning, and open space for the next 10-15 years. This chapter, which includes the inventory & conditions, opportunities & challenges and recommendations, will be available at the link provided above. The information presents the “high view” rather than specifics so the Town can remain flexible regarding funding. The task is to balance open space and housing development. Forest health, wildfire risks, river access, adaptive reuse, zoning and new manufacturing are also themes considered in the chapter.

Considering the purview of this Commission, the Agent asks Flanders to highlight the material regarding flooding, erosion, and damage caused by stormwater.

M. Reckard read the chapter and notes that it is based on feedback from the Town, surveys, and workshops in which “flood resilience” was voiced as a priority.

Tasmin Flanders requests that feedback from the Conservation Commission goes to the Agent, who will forward it to her and the FRCOG team.

M. Reckard and the Conservation Agent encourage the Commission to weigh in on recommendations at

the end of the chapter, particularly infill analysis and mapping.

Municipal Certification for Nell Wright's intended conservation restrictions placed on Parcel #50-0-16 and Parcel #50-0-17, Old Sunderland Road

The Agent shows the map of the two acres that are under consideration. Liam Cregan from Franklin Land Trust is working with the property owner of the Old Sunderland Road parcels. The parcels were part of a farm, which was subdivided. Nell Wright bought the land with the purpose of conservation. The project has gone through the Franklin Land Trust Board who will draft the conservation restriction and ensure the terms of the agreement. The Town and State needs to approve any situation in which a nonprofit holds a conservation restriction. Cregan seeks that the Conservation Commission recommends that the Selectboard approve the restriction. The timeline for the transfer is 2026. An application was submitted to the State.

General discussion about maps, forms, and process. A draft for municipal certification was created.

M. Reckard asks if a forest management is required. Cregan responds "no" but if forest management were to take place a forest management plan would be required.

Mark Stinson is in attendance and reviews the adjacent conservation land, which is under the Agricultural Preservation Restriction (APR) Program. The Old Sunderland Road parcels in question will not be an APR because they are less than 5 acres in size; therefore, they do not meet one of the primary requirements.

The Commission finds that the intended conservation restriction is in the public interest in that it provides the following:

- Includes a 5-acre field that contributes to the local food system and local economy.
- Includes a portion of the Cranberry Brook and forested wetlands, which contributes to the water quality of the Connecticut River.
- Includes areas designated as "Critical Natural Landscape" by the NHESP's BioMap3 database.
- Contains 22 acres of forestland, which mitigates the effects of climate change.
- Contributes to the success of Montague's Open Space & Recreation Plan.

MOTION by T. Reiber to endorse the certification for the Montague Selectboard. Seconded by T. Carter. VOTE: Fairbrother (AYE), Carter (AYE), Reiber (AYE), Reckard (AYE), Werle (AYE), Francis (Abstain). MOTION PASSES (5-0-1) 6:50PM.

Possible Violation: Turnpike Road (Parcel #21-0-004) – tree cutting within Buffer Zone

Commissioners Fairbrother, Carter and the Conservation Agent had a site visit observed tree cutting in wetlands resource areas and buffer zone. An aerial map showing the stream, slope and trees is indicated.

Evelyn Walsh contacted the Agent via email about a year ago with the intention of removing saplings and brush. The Agent recommended that Walsh contact a local wetland scientist to confirm the wetland(s) boundaries in relation to the proposed work and to confirm whether any Conservation Commission filing is needed. The Commission did not receive a filing. The Cemetery Association hired a logger, who performed the work.

Fairbrother reports that trees were removed right to the contour line; some large trees were removed at the bottom of the ravine.

Toby Carter is a licensed forester. The work raised some red flags regarding the Wetlands Protection Act and forest cutting practices.

Evelyn Walsh discusses the 4.5 acres. The land was always to be used for cemetery expansion. Over many years there has been discussion about tree clearing for the benefit of expansion and general maintenance costs. One of the members of the Cemetery Association Committee pursued this idea. He is no longer on the Committee. Evelyn Walsh and Paul Porter were not involved with those details but did meet with the logger who communicated what the cemetery could expect as revenue. Walsh recalls a "50-foot setback" which is not correct. Mark Stinson articulates the law – any work within 100 feet of a wetland resource area requires Commission review/approval. Walsh agrees that the employee cutting the trees did not adhere to the wrongly assumed 50-foot buffer. Walsh does not know what the logger communicated to the employee regarding the buffer zone. The logger cut trees within 50 feet of the wetland and in fact within the wetland resource area itself.

The Agent emailed Andrew Rawcliffe (DCR Service Forester) about the matter.

Mark Stinson reports that Forest Cutting Plans are not issued for change of use; the intent was to expand the cemetery. The only requirement would be to file an RDA with the Conservation Committee to establish the wetlands delineation and for the proposed activity.

The Agent reports that the Montague Zoning Bylaw states that if 3+ acres are disturbed then a site plan review process with the Planning Board is required.

Mark Fairbrother reports on an area of the work which did not go past the top of the bank, although he is unsure if it is outside of the 100' buffer. Other parts of the work are clearly inside the buffer.

The Commission asks if there was a written contract. Porter responds that he "does not know" and both Porter and Walsh blame the man (who is no longer on the Cemetery Committee) who had initial contact with the logger.

Mark Fairbrother thinks that it is possible that both the MA Wetlands Protection Act and Zoning Bylaw were violated.

Mark Stinson suggests that the first step is to have the wetlands delineated, then have the consultant determine what has to be done for stabilization. The logger as well as the Cemetery can receive an Enforcement Order from the Conservation Commission.

The Agent requests the name and contact information of the logger.

Mark Fairbrother does not want the logging company to do any additional cutting until the wetlands are delineated. Sean Werle questions whether the Conservation Commission can stop work beyond the 100-foot buffer zone.

Mark Stinson says the Commission can issue an Enforcement Order (Form 9) to determine the 100-foot line and for a proposed restoration plan.

General conversation about land disturbance, erosion and stop work orders.

Fairbrother remarks that the Cemetery can tell the company to stop all work within 100 feet of the wetlands.

The Agent recommends setting a timeline for delineations and a restoration plan for the June 20 Conservation Commission meeting.

Possible Violation: Rod Shop Road (Parcel #12-0-052) - tree cutting within Buffer Zone

The Agent, Toby and Fairbrother conducted a site visit and determined that there was no issue on the site. The Agent shows an aerial map of Rod Shop Road; the trees cut by the new property owner were outside of the buffer zone.

BUSINESS NOT ANTICIPATED WITHIN 48 HOURS:

The Agent has been contacted multiple times about activities on parcels owned by Falls Farm LLC and James Arcoleo, including: tree cutting, large piles of sand, and sediment flowing into the intermittent stream. Sediment coming off the parcels flows offsite and blocks a culvert along Meadow Road which needs to be shoveled out by DPW.

Jennifer Unkles, the Sunderland Conservation Commission Chair emailed Pollock with photos and a copy of the Enforcement Order issued by the Sunderland Commission. The Agent compares aerial maps which show how the land has been deforested between 2019 and 2023.

Fairbrother notes possible wetlands violations in Montague.

According to the Montague Assessor, the property is under Chapter 61. The Sunderland Conservation Chair reports that this farm is registered with the State agency which conducts annual inspections.

Mark Stinson sees the issue as the forested area being part of the farm but not agricultural in use; when the landowner goes between forestry to different types of agricultural use, the activity is not exempt. Property owners need to file an application to the Conservation Commission for work within 100 feet of a wetland resource area and within 200 feet of a perennial stream.

The Agent asks if there should be coordination with Sunderland for a site visit. The Commission agrees there should be. The Agent lets the Commission know that she has asked for input from other Town of Montague departments.

Possible Violation: Sherman Drive (Parcel #19-0-78) – filled area within Buffer Zone

There have been no changes. This topic is tabled.

Agent reports that the May 4th Town Meeting voted to approve the Commission's request to allocate \$10,000 into the Waidlich Conservation Fund.

MOTION by Fairbrother to Adjourn. Vote Unanimous (6-0). Meeting Is Adjourned 8:12pm